

7-2-90
Vol. 55

No. 127

federal register

Monday
July 2, 1990

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, \$300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** will be furnished by mail to subscribers for \$340 per year in paper form; \$195 per year in microfiche form; or \$37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is \$1.50 for each issue, or \$1.50 for each group of pages as actually bound, or \$175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 55 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202-783-3238
Magnetic tapes	275-3328
Problems with public subscriptions	275-3054

Single copies/back copies:

Paper or fiche	783-3238
Magnetic tapes	275-3328
Problems with public single copies	275-3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523-5240
Magnetic tapes	275-3328
Problems with Federal agency subscriptions	523-5240

For other telephone numbers, see the Reader Aids section at the end of this issue.

Contents

Federal Register

Vol. 55, No. 127

Monday, July 2, 1990

ACTION

NOTICES

Agency information collection activities under OMB review, 27275

Agency for International Development

NOTICES

Agency information collection activities under OMB review, 27309

Agricultural Marketing Service

RULES

Lemons grown in California and Arizona, 27182

Papayas grown in Hawaii, 27184

PROPOSED RULES

Tobacco inspection:

Burley tobacco; grade standards, 27249

Agriculture Department

See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Federal Crop Insurance Corporation; Federal Grain Inspection Service; Forest Service

Animal and Plant Health Inspection Service

RULES

Plant-related quarantine, domestic:

Mexican fruit fly, 27180

NOTICES

Environmental statements; availability, etc.:

Genetically engineered plants; field test permits—

Tobacco, 27275

Civil Rights Commission

NOTICES

Meetings; State advisory committees:

California, 27287

New Jersey, 27288

Coast Guard

RULES

Reporting and recordkeeping requirements, 27226

NOTICES

Commercial fishing industry vessel operators; licensing; meetings, 27324

Commerce Department

See Export Administration Bureau; Foreign-Trade Zones Board; International Trade Administration; National Institute of Standards and Technology; National Oceanic and Atmospheric Administration

Defense Department

RULES

Records:

Directives, instructions, publications, and changes; availability, 27225

PROPOSED RULES

Acquisition regulations:

Anchor and mooring chain, 27268

NOTICES

DOD directives system annual index and Change 1; availability, 27296

Meetings:

DIA Advisory Board, 27296

Science Board, 27296

Energy Department

See also Federal Energy Regulatory Commission

NOTICES

National energy strategy development; hearings, 27296

Environmental Protection Agency

RULES

Air quality implementation plans; approval and promulgation; various States:

South Carolina, 27226

Waste management, solid:

Medical waste—

Tracking and management standards; correction, 27228

PROPOSED RULES

Toxic substances:

Significant new uses—

Polyol carboxylate ester, etc., 27257

NOTICES

Toxic and hazardous substances control:

Chemical testing—

Data receipt, 27303

Premanufacture exemption approvals, 27302

Executive Office of the President

See Presidential Documents; Trade Representative, Office of United States

Export Administration Bureau

NOTICES

Export privileges, actions affecting:

Govaerts, Franciscus, et al., 27288

Federal Aviation Administration

RULES

Airworthiness directives:

McDonnell Douglas; correction, 27330

Pratt & Whitney, 27200

NOTICES

Exemption petitions; summary and disposition, 27325

Meetings:

Aviation Security Advisory Committee, 27326

Federal Crop Insurance Corporation

RULES

Administrative regulations:

Suspension and debarment procedures; contracting with individuals and firms

Correction, 27182

Federal Deposit Insurance Corporation

NOTICES

Meetings; Sunshine Act, 27329

Federal Energy Regulatory Commission

NOTICES

Environmental statements; availability, etc.:

Environmental Energy Co., 27297

Trans Mountain Hydro Corp., 27297

Hydroelectric applications, 27297**Natural gas certificate filings:**

Texas Eastern Transmission Corp. et al., 27301

Applications, hearings, determinations, etc.:

Duke Power Co., 27302

Federal Grain Inspection Service**NOTICES****Agency designation actions:**

Georgia et al., 27276

Illinois et al., 27277

Iowa, 27278

Nebraska et al., 27276

Federal Highway Administration**PROPOSED RULES****Engineering and traffic operations:**

Preconstruction procedures; Federal-aid programs approval and project authorization; withdrawal of advance notice, 27250

Federal Maritime Commission**NOTICES**

Agreements filed, etc., 27303

Freight forwarder licenses:

Penson Florida Co. et al., 27304

Financial Management Service*See* Fiscal Service**Fiscal Service****NOTICES**

Surety companies acceptable on Federal bonds; annual list, 27332

Fish and Wildlife Service**PROPOSED RULES****Endangered and threatened species:**

Schweinitz's sunflower, 27270

Food and Drug Administration**NOTICES****Food additive petitions:**

Cambridge Products Ltd., 27304

Meetings:

Advisory committees, panels, etc., 27304

Foreign-Trade Zones Board**NOTICES***Applications, hearings, determinations, etc.:***Illinois**

Clinton Electronics cathode ray tube manufacturing plant, 27290

Louisiana

Avondale Industries, Inc., shipbuilding and industrial fabrication facilities, 27290

Texas

Gulf Coast Maritime Supply export distribution facility, 27291

Forest Service**NOTICES**

Mexican spotted owl; management guidelines and inventory and monitoring protocols, 27278

National Forest System lands:

Special authorizations; rental fee schedule—Intermountain Region, 27398

Government Ethics Office**RULES**

Conflict of interests

Correction, 27330

Separate executive agency status and office address, and rulemaking authority clarification, 27179

Health and Human Services Department*See* Food and Drug Administration; Human Development Services Office**Housing and Urban Development Department****RULES****Low income housing:**

Elderly or handicapped housing—

Loans; construction contracts award requirements, 27223

Mortgage and loan insurance programs:

Direct endorsement processing; additional types of mortgages and loans authorized, 27218

PROPOSED RULES**Low income housing:**

Housing assistance payments (Section 8)—

Contract rent annual adjustment factors; retroactive payments; correction, 27251

Manufactured home procedural and enforcement regulations:

Monitoring inspection fees; distribution to State administrative agencies, 27252

Human Development Services Office**NOTICES**

Grants and cooperative agreements; availability, etc.:

Head Start enrollment expansion program, 27376

Interior Department*See* Fish and Wildlife Service; Land Management Bureau;

National Park Service; Surface Mining Reclamation and Enforcement Office

International Development Cooperation Agency*See* Agency for International Development; Overseas

Private Investment Corporation

International Trade Administration**NOTICES****Antidumping:**

High power amplifiers from Japan, 27291

Pig iron from Canada, 27291

Synthetic methionine from Japan, 27292

Antidumping and countervailing duties:

Administrative review requests; correction, 27330

Export trade certificates of review, 27292

Short supply determinations:

Hot-rolled D6A alloy steel strip, 27293

Modular steel scaffolding, 27292

Interstate Commerce Commission**NOTICES**

Meetings; Sunshine Act, 27329

Railroad services abandonment:

Atchison, Topeka & Santa Fe Railway Co., 27309

Senior Executive Service:

Performance Review Board; membership, 27309

Justice Department*See* Justice Programs Office

Justice Programs Office**NOTICES**

Grants and cooperative agreements; availability, etc.:
Crime victims discretionary program, 27310

Land Management Bureau**NOTICES**

Committees; establishment, renewal, termination, etc.:

District advisory councils, 27305

Environmental statements; availability, etc.:

24-inch natural gas pipeline, AR and OK, 27307

Meetings:

California Desert District Advisory Council, 27307

Maritime Administration**NOTICES**

Applications, hearings, determinations, etc.:

Equity Carriers I, Inc., et al., 27327

National Archives and Records Administration**RULES**

Records management:

Creation and maintenance of records; adequate and proper documentation, 27422

Federal records disposition, 27426

Micrographics, 27434

National Highway Traffic Safety Administration**PROPOSED RULES**

Motor vehicle safety standards:

Tires, new pneumatic

Bead unseating tire dimensions; correction, 27330

National Driver Register Problem Driver Pointer System; participation procedures and conditions, 27251

NOTICES

Highway safety analysis; police traffic accident reports; critical automated data reporting elements; list, 27327

National Institute of Standards and Technology**NOTICES**

Meetings:

Weights and Measures National Conference, 27294

National Oceanic and Atmospheric Administration**NOTICES**

Coastal zone management programs and estuarine sanctuaries:

Consistency appeals—

Chestnut, A. Elwood, 27259

Meetings:

Chesapeake Bay National Estuarine Research Reserve, MD, 27295

National Park Service**NOTICES**

Environmental statements; availability, etc.:

Haleakala National Park, HI, 27308

Yellowstone National Park, WY, 27308

Yukon Charley Rivers National Preserve et al., AK; correction, 27308

National Women's Business Council**NOTICES**

Meetings, 27328

Nuclear Regulatory Commission**NOTICES**

Nuclear waste transportation:

Notification to Governor's designees; list, 27310

Applications, hearings, determinations, etc.:

Florida Power & Light Co., 27312

GPU Nuclear Corp. et al., 27313

Long Island Lighting Co., 27314

Virginia Electric & Power Co., 27315

Office of United States Trade Representative

See Trade Representative, Office of United States

Overseas Private Investment Corporation**NOTICES**

Meetings; Sunshine Act, 27329

Personnel Management Office**RULES**

Acquisition regulations:

Health benefits, Federal employees; contract clauses and community rating practices revision, 27405

Presidential Documents**PROCLAMATIONS**

Imports and exports:

Harmonized Tariff Schedule of U.S.; amendments (Proc. 6151), 27171

Public Health Service

See Food and Drug Administration

Securities and Exchange Commission**NOTICES**

Self-regulatory organizations; proposed rule changes:

American Stock Exchange, Inc., 27316

Midwest Stock Exchange, Inc., 27317

Applications, hearings, determinations, etc.:

Henderson International Growth Fund et al., 27319

Public utility holding company filings, 27322

Small Business Administration**RULES**

Business loan policy:

Preferred lenders program

Clarification, 27197

Procedural rules; revision; correction, 27198

PROPOSED RULES

Small business size standards:

Nonmanufacturer rule; waiver for dictionaries and thesauruses, 27249

NOTICES

Agency information collection activities under OMB review, 27323

License surrenders:

Tamco Investors (SBIC), Inc., 27323

Applications, hearings, determinations, etc.:

Alpha Capital Corp., 27324

Surface Mining Reclamation and Enforcement Office**RULES**

Permanent program and abandoned mine land reclamation

plan submissions:

Alabama, 27224

PROPOSED RULES

Permanent program and abandoned mine land reclamation

plan submissions:

Alabama, 27255

Ohio; correction, 27258

Thrift Supervision Office**RULES**

Savings associations:

Capital distributions; dividends, stock repurchases, and cash-out mergers, 27185

Trade Representative, Office of United States**NOTICES**

Brazil:

Increased duties on certain products; termination, 27324

Transportation Department

See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Maritime Administration; National Highway Traffic Safety Administration; Urban Mass Transportation Administration

Treasury Department

See Fiscal Service; Thrift Supervision Office

Urban Mass Transportation Administration**NOTICES**

Transit bus and van materials selection; fire safety practices, 27402

Separate Parts In This Issue**Part II**

Department of the Treasury, Fiscal Service, 27332

Part III

Department of Health and Human Services, Office of Human Development Services, 27376

Part IV

Department of Agriculture, Forest Service, 27398

Part V

Department of Transportation, Urban Mass Transportation Administration, 27402

Part VI

Office of Personnel Management, 27406

Part VII

National Archives and Records Administration, 27442

Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR**Proclamations:**

6151.....27171

5 CFR

2637 (2 documents).....27179,

27330

2638.....27179

7 CFR

301.....27180

400.....27182

910.....27182

928.....27184

Proposed Rules:

29.....27249

12 CFR

563.....27185

563b.....27185

13 CFR

120.....27197

121.....27198

Proposed Rules:

121.....27249

14 CFR

39 (2 documents).....27200,

27330

23 CFR**Proposed Rules:**

630.....27250

1327.....27251

24 CFR

200.....27218

203.....27218

885.....27223

Proposed Rules:

888.....27251

3282.....27252

30 CFR

901.....27224

Proposed Rules:

901.....27255

935.....27256

32 CFR

289.....27225

33 CFR

4.....27226

146.....27226

36 CFR

1220 (2 documents).....27422,

27426

1222.....27422

1224.....27422

1228.....27426

1230.....27434

40 CFR

52.....27226

259.....27228

Proposed Rules:

721.....27257

48 CFR

1602.....27405

1615.....27405

1616.....27405

1622.....27405

1632.....27405

1652.....27405

Proposed Rules:

208.....27268

225.....27268

252.....27268

49 CFR**Proposed Rules:**

571.....27330

50 CFR**Proposed Rules:**

17.....27270

No. of ...		...
1	...	...	...
2	...	...	...
3	...	...	...
4	...	...	...
5	...	...	...
6	...	...	...
7	...	...	...
8	...	...	...
9	...	...	...
10	...	...	...
11	...	...	...
12	...	...	...
13	...	...	...
14	...	...	...
15	...	...	...
16	...	...	...
17	...	...	...
18	...	...	...
19	...	...	...
20	...	...	...
21	...	...	...
22	...	...	...
23	...	...	...
24	...	...	...
25	...	...	...
26	...	...	...
27	...	...	...
28	...	...	...
29	...	...	...
30	...	...	...
31	...	...	...
32	...	...	...
33	...	...	...
34	...	...	...
35	...	...	...
36	...	...	...
37	...	...	...
38	...	...	...
39	...	...	...
40	...	...	...
41	...	...	...
42	...	...	...
43	...	...	...
44	...	...	...
45	...	...	...
46	...	...	...
47	...	...	...
48	...	...	...
49	...	...	...
50	...	...	...
51	...	...	...
52	...	...	...
53	...	...	...
54	...	...	...
55	...	...	...
56	...	...	...
57	...	...	...
58	...	...	...
59	...	...	...
60	...	...	...
61	...	...	...
62	...	...	...
63	...	...	...
64	...	...	...
65	...	...	...
66	...	...	...
67	...	...	...
68	...	...	...
69	...	...	...
70	...	...	...
71	...	...	...
72	...	...	...
73	...	...	...
74	...	...	...
75	...	...	...
76	...	...	...
77	...	...	...
78	...	...	...
79	...	...	...
80	...	...	...
81	...	...	...
82	...	...	...
83	...	...	...
84	...	...	...
85	...	...	...
86	...	...	...
87	...	...	...
88	...	...	...
89	...	...	...
90	...	...	...
91	...	...	...
92	...	...	...
93	...	...	...
94	...	...	...
95	...	...	...
96	...	...	...
97	...	...	...
98	...	...	...
99	...	...	...
100	...	...	...

Presidential Documents

Title 3—

Proclamation 6151 of June 28, 1990

The President

Modification of Import Restrictions for Certain Agricultural Products

By the President of the United States of America

A Proclamation

1. Prior to January 1, 1989, the President by various proclamations had imposed fees or quantitative limitations on the importation of certain agricultural commodities and products thereof under the authority of section 22 of the Agricultural Adjustment Act of 1933, as amended (7 U.S.C. 624) (hereinafter section 22). Section 22 requires the President to impose fees or quantitative limitations on the importation of any article if he finds, on the basis of a recommendation by the Secretary of Agriculture and an investigation and report of findings by the United States International Trade Commission, that such fees or quantitative limitations are necessary to prevent such article from being imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, any program or operation undertaken by the Department of Agriculture with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken. Such fees and quantitative limitations imposed by the President pursuant to section 22 were set forth in part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) and are now provided for in subchapter IV of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

2. In addition, by Proclamation No. 4334 of November 16, 1974 (39 Fed. Reg. 40739), the President had established an import quota for certain sugars, syrups and molasses, to become effective on January 1, 1975, as provided for in headnote 3 to subpart A, part 10, schedule 1 of the TSUS. Subsequent proclamations have modified such quota. In issuing Proclamation No. 4334 and such subsequent proclamations, the President acted in conformity with headnote 2 to subpart A, part 10, schedule 1 of the TSUS (the sugar headnote). The provisions of headnotes 2 and 3 of subpart A, part 10, schedule 1 of the TSUS are now set forth, respectively, in additional U.S. notes 2 and 3 to chapter 17 of the HTS. The current provision authorizes the President to modify any quota limitation established for certain sugars, syrups and molasses provided for in subheadings 1701.11, 1701.12, 1701.91.20, 1701.99, 1702.90.30, 1702.90.40, 1806.10.40 and 2106.90.10 of the HTS if he finds that such modification is required or appropriate to give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties to the General Agreement on Tariffs and Trade (GATT).

3. Section 1204(a) of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) (19 U.S.C. 3004(a)) enacted the HTS, effective January 1, 1989. The structure and rules of interpretation of the HTS are different from the structure and rules of interpretation of the TSUS. While every effort was made to take account of these differences in the conversion to the nomenclature and structure of the HTS of import restrictions previously imposed under the authority of section 22 and in conformity with the sugar headnote, unforeseen changes occurred in the treatment of certain imported agricultural products with respect to these import restrictions.

4. Section 1211(c) of the 1988 Act (19 U.S.C. 3011(c)) provides that the President may proclaim changes in subchapter IV of chapter 99 of the HTS and in additional U.S. note 2 to chapter 17 of the HTS to conform them to part 3 of the Appendix to the TSUS and headnote 2 of subpart A of part 10 of schedule 1 of the TSUS, respectively. Such changes may be proclaimed if the President determines that conversion from the TSUS to the HTS has resulted in articles previously subject to import restrictions proclaimed pursuant to section 22, or covered by such sugar headnote, being excluded from those restrictions, or articles previously excluded from the import restrictions proclaimed pursuant to section 22, or not previously covered by such sugar headnote, being included within such restrictions.

5. I find that the conversion of import restrictions proclaimed pursuant to section 22 from part 3 of the Appendix to the TSUS to subchapter IV of chapter 99 of the HTS has resulted in certain articles previously subject to such restrictions being excluded from the restrictions and that certain other articles not previously subject to such restrictions being covered by such restrictions. Such changes in the coverage of those restrictions have occurred for the following articles: sweetened dried low fat milk classifiable in subheading 0402.10; sweetened dried whey classifiable in subheading 0404.10.40; dried yogurt classifiable in subheading 0403.10; acidified milk, dried fermented milk and milk powder containing added lactic ferments or crystalline acid classifiable in subheading 0403.90.80; edible mixtures of animal fats and vegetable oils classifiable in subheading 1517.90.40; certain fish preparations classifiable in subheadings 1604.20.05, 1605.10.05 and 1605.90.05; sugar syrups subject to section 22 fees classifiable in heading 1702; sugar confectionery not ready for consumption classifiable in subheading 1704.90.60; white chocolate classifiable in subheading 1704.90.40; filled chocolates classifiable in subheading 1806.31; certain edible preparations containing cocoa classifiable in subheadings 1806.20.80, 1806.32.40, 1806.90 and 1901.90.80; mixes and doughs classifiable in subheading 1901.20; mixtures of nonfat dry milk and anhydrous butterfat containing over 5.5 percent but not over 45 percent by weight of butterfat classifiable in subheading 1901.90.30; certain casein mixtures classifiable in subheading 1901.90.40; rusks and toasted bread classifiable in subheading 1905.40; mixed canned fruit classifiable in subheading 2008.92.90; sauces and sauce preparations classifiable in subheading 2103.90.60; edible ices containing cocoa classifiable in subheading 2105.00; and sherbet and other edible ice with a basis of milk or cream classifiable in subheading 2105.00. I further find that the modifications hereinafter proclaimed of the import restrictions set forth in subchapter IV of chapter 99 of the HTS are necessary and appropriate to conform that subchapter to the fullest extent possible to part 3 of the Appendix to the TSUS.

6. I find that the conversion from headnote 2 of subpart A of part 10 of schedule 1 of the TSUS to additional U.S. note 2 to chapter 17 of the HTS has resulted in an article, edible molasses classifiable in subheading 1702.90.40, that was not previously covered by such headnote being included in the coverage of the quota set forth in additional U.S. notes 3 and 4 to chapter 17 of the HTS. I further find that the modifications, hereinafter proclaimed, of additional U.S. note 2 to chapter 17 of the HTS and of the quota on the importation of certain sugars, syrups and molasses set forth in additional U.S. notes 3 and 4 to chapter 17 of the HTS are required or appropriate to give due consideration to the interests in the United States sugar market of domestic producers and materially affected contracting parties of the GATT and to conform such quota to the fullest extent possible to the coverage of the quota previously established in conformity with headnote 2 of subpart A of part 10 of schedule 1 of the TSUS.

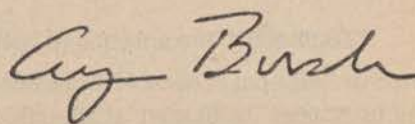
7. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the provisions of that Act and of other Acts affecting import treatment and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and laws of the United States, including but not limited to section 1211(c) of the Omnibus Trade and Competitiveness Act of 1988, additional U.S. note 2 to chapter 17 of the HTS, and section 604 of the Trade Act of 1974, do proclaim that:

(1) The HTS is modified as provided in the annex to this proclamation.

(2) The modifications made by this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 1990.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of June, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fourteenth.



[Faint, illegible text throughout the page, likely bleed-through from the reverse side. A signature is visible in the upper left quadrant.]

Presidential Documents

ANNEX

MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

1. Additional U.S. notes 2, 3 and 4 to chapter 17 are modified by deleting "1702.90.40" at each occurrence.
2. The article description of subheading 9904.10.60 is modified to read:

"Malted milk, and articles of milk or cream (except (a) yogurt that is not in dry form, (b) fermented milk other than dried fermented milk or other than dried milk with added lactic ferments, (c) mixtures of nonfat dry milk and anhydrous butterfat containing over 5.5 percent but not over 45 percent by weight of butterfat, and (d) ice cream), all the foregoing provided for in subheadings 0402.99.60, 0403.10.00, 0403.90.80, 0404.90.20, 1901.10.00, 1901.90.30, 2105.00.00 and 2202.90.20."
3. Subheading 9904.10.63 is modified by striking out "1806.20.80,".
4. The article description of subheading 9904.10.66 is modified to read:

"Chocolate, provided for in subheadings 1806.20.40, 1806.32.20 and 1806.90, and low fat chocolate crumb, provided for in subheadings 1806.20.80 and 1806.90, containing 5.5 percent or less by weight of butterfat (except articles for consumption at retail as candy or confection):"
5. The article description of subheading 9904.10.75 is modified by replacing the text following "imported;" with the following:

"all the foregoing mixtures provided for in subheadings 0402.10, 0404.10.40, 0404.90.60, 1517.90.40, 1704.90.40, 1704.90.60, 1806.20.80, 1806.32.40, 1806.90, 1901.20, 1901.90.80 and 2106.90.05, except articles within the scope of other import restrictions provided for in this subchapter."
6. The superior text to subheading 9904.10.78 and 9904.10.81 is modified to read:

"Articles containing over 5.5 percent by weight of butterfat, the butterfat of which is commercially extractable, or which are capable of being used for any edible purpose (except (a) articles provided for in headings 0401, 0402, 0405 or 0406 or subheadings 1901.10 or 1901.90.30 other than mixtures of nonfat dry milk and anhydrous butterfat containing not over 45 percent by weight of butterfat classifiable for tariff purposes under subheading 1901.90.30; (b) dried mixtures containing less than 31 percent by weight of butterfat and consisting of not less than 17.5 percent by weight each of sodium caseinate, butterfat, whey solids containing over 5.5 percent by weight of butterfat, and dried whole milk, but not containing dried milk, dried whey or dried buttermilk any of which contains 5.5 percent or less by weight of butterfat; and (c) articles which are not suitable for use as ingredients in the commercial production of edible articles):"
7. The article description of subheading 9904.10.81 is modified to read:

"Over 5.5 percent but not over 45 percent by weight of butterfat including mixtures of nonfat dry milk and anhydrous butterfat classifiable for tariff purposes under subheading 1901.90.30 and other articles classifiable for tariff purposes under subheading 0404.90.40, 0404.90.60, 1517.90.40, 1704.90.40, 1704.90.60, 1806.20.80, 1806.32.40, 1806.90, 1901.20, 1901.90.40, 1901.90.80, 2105.00, 2106.90.40 or 2106.90.50"
8. The superior text to subheadings 9904.40.20 and 9904.40.40 is modified by deleting "heading 1702 or in".

9. Subheading 9904.50.40 is modified by deleting "1806.31," and "1905.40, 2008.92.90,".

10. The article description of subheading 9904.60.60 is modified to read:
"Provided for in subheading 1704.90.60, 1806.20.70, 1806.20.80, 1806.90, 1901.90.80, 2101.10.40, 2101.20.40, 2103.90.60 or 2106.90.50, except cake decorations and similar products to be used in the same condition as imported without any further processing other than the direct application to individual pastries or confections; finely ground or masticated coconut meat or juice thereof mixed with those sugars; and sauces and preparations therefore."

Cy Bush

[FR Doc. 90-15472

Filed 6-28-90; 5:02 pm]

Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 55, No. 127

Monday, July 2, 1990

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF GOVERNMENT ETHICS

5 CFR Parts 2637 and 2638

Revisions of References in Certain Rules to Show the Correct Separate Agency Status and Office Address and to Clarify the Rulemaking Authority of the Office of Government Ethics

AGENCY: Office of Government Ethics.

ACTION: Final rule.

SUMMARY: The Office of Government Ethics is issuing technical revisions to two of its government ethics regulations to reflect OGE's recent separate executive agency status and new office address and to clarify a reference to its rulemaking authority.

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, telephone (202/FTS) 523-5757, FAX (202/FTS) 523-6325.

SUPPLEMENTARY INFORMATION:

A. Technical Revisions

The Office of Government Ethics (OGE), formerly a part of the Office of Personnel Management (OPM), became a separate agency in the executive branch on October 1, 1989. Separate executive agency status for OGE was provided for in sections 3 and 10(b) of the 1988 OGE reauthorization legislation (Public Law 100-598 of Nov. 3, 1988), amending section 401(a) of the Ethics in Government Act of 1978 (5 U.S.C. appendix IV, section 401(a)). In accordance with its new separate agency status, the Office of Government Ethics established its own chapter XVI of title 5 of the Code of Federal Regulations and, with the concurrence of OPM, transferred three government ethics regulations thereto. See 54 FR 50229-50231 (December 5, 1989). The

three regulations were transferred to OGE's new chapter without substantive change and were redesignated as 5 CFR parts 2634, 2637 (with internal numbering changes) and 2638 (former 5 CFR parts 734, 737 and 738).

In four places in two of the regulations, parts 2637 and 2638 of the 5 CFR, references to the prior OPM component status and old office address of the Office of Government Ethics have remained. In this rulemaking, OGE is correcting those references to show its separate executive agency status and current office address: Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917. Section 2637.101(a), which sets forth OGE's agency status, is also being clarified to more precisely state the nature of OGE's executive branch government ethics rulemaking authority, in conjunction with OPM and the Attorney General, under sections 402 (a) and (b) of the Ethics in Government Act, as amended, 5 U.S.C. appendix IV, sections 402 (a) and (b). Finally, a few minor typographical errors in the passages being amended are also being corrected.

B. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553 (b) and (d), the Acting Director of the Office of Government Ethics finds good cause exists for waiving the general notice of proposed rulemaking and 30-day delay in effectiveness as to these revisions. The notice is being waived because these regulations concern matters of agency organization, practice and procedure and because it is in the public interest that OGE's correct separate agency status and office address and the clarification of OGE's rulemaking authority be included in these regulations as soon as possible.

Executive Order 12291

The Office of Government Ethics has determined that this is not a major rule as defined under section 1(b) of Executive Order 12291, Federal Regulation.

Regulatory Flexibility Act

As Acting Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rulemaking will not have a significant economic impact on a substantial number of small entities

because it will affect only the technical agency status, address information and rulemaking authority description of the Office of Government Ethics in its own regulations.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this rulemaking does not contain information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Parts 2637 and 2638

Administrative practice and procedure, Conflict of interests, Government employees, Reporting and recordkeeping requirements.

Approved: June 15, 1990.

Donald E. Campbell,

Acting Director, Office of Government Ethics.

Accordingly, the Office of Government Ethics pursuant to its authority under title IV of the Ethics in Government Act is amending 5 CFR parts 2637 and 2638 as follows.

PART 2637—REGULATIONS CONCERNING POST EMPLOYMENT CONFLICT OF INTEREST

1. The authority citation for part 2637 continues to read as follows:

Authority: 5 U.S.C. appendixes III, IV; 18 U.S.C. 207.

2. Section 2637.101 is amended by removing the first two sentences of paragraph (a) and adding three new sentences in place thereof to read as follows:

§ 2637.101 Purpose and policy.

(a) *Authority.* Section 401(a) of the Ethics in Government Act of 1978 (the "Act"), as amended by Public Law 100-598 (Nov. 3, 1988), established the Office of Government Ethics ("OGE") as a separate agency in the executive branch, effective October 1, 1989. (OGE was formerly a part of the Office of Personnel Management ("OPM")). Sections 402 (a) and (b) of the Act, as amended, provide that the Director of the Office of Government Ethics ("the Director") shall provide, in consultation with OPM, overall direction of executive branch policies related to preventing conflicts of interest on the part of

officers and employees of any executive agency as defined in section 105 of title 5, United State Code, and shall propose, in consultation with the Attorney General and OPM, rules and regulations to be promulgated by the President or by OGE pertaining to conflicts of interest and ethics in the executive. * * *

PART 2638—OFFICE OF GOVERNMENT ETHICS AND EXECUTIVE AGENCY ETHICS PROGRAM RESPONSIBILITIES.

3. The authority citation for part 2638 continues to read as follows:

Authority: 5 U.S.C. appendixes III, IV.

4. Section 2638.304 is amended by revising paragraph (a) to read as follows:

§ 2638.304 Form of requests for formal advisory opinions.

(a) A request for a formal advisory opinion should be directed to the Director of the Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917.

5. Section 2638.307 is amended by revising paragraph (b) to read as follows:

§ 2638.307 Written comment on requests.

(b) Additional time in which to comment may be granted upon written request to or at the discretion of the Director. Such requests and all written comments shall be sent to the Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917.

6. Section 2638.310 is amended by revising paragraph (b) to read as follows:

§ 2638.310 Public availability and publication of formal advisory opinions.

(b) A copy of this version of the opinion shall then be made available for public inspection within 10 working days after the issuance of the opinion at the Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917.

[FR Doc. 90-15331, Filed 6-29-90; 8:45 am]
BILLING CODE 8345-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 90-085]

7 CFR Part 301

Mexican Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mexican fruit fly regulations by adding California to the list of quarantined States and by designating as regulated areas a portion of Los Angeles County, near Compton, and a portion of San Diego County, near El Cajon. This action is necessary on an emergency basis to prevent the spread of the Mexican fruit fly into noninfested areas of the United States. The effect of this action is to impose restrictions on the interstate movement of regulated articles from regulated areas in California into or through Arizona, Florida, Guam, Hawaii, Puerto Rico, Texas, the Virgin Islands of the United States, and certain Parishes in Louisiana.

DATES: Interim rule effective June 26, 1990. Consideration will be given only to comments received on or before August 31, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies of written comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90-085. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION:

Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), is an extremely destructive pest of certain fruits and vegetables. The Mexican fruit fly can cause serious economic losses. The

short life cycle of this pest allows the rapid development of serious outbreaks.

The Mexican fruit fly regulations contained in 7 CFR 301.64 *et seq.* (referred to below as the regulations) impose restrictions on the interstate movement of regulated articles from regulated areas in quarantined States in order to prevent the artificial spread of the Mexican fruit fly to noninfested areas. Regulated articles include citrus fruit, avocados, apples, peaches, pears, lemons, limes, plums, prunes, and pomegranates. Prior to the effective date of this rule, Texas was the only State quarantined for the Mexican fruit fly.

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of Plant Protection and Quarantine, a unit within the Animal and Plant Health Inspection Service, United States Department of Agriculture, reveal that areas within California are also infested with the Mexican fruit fly.

Specifically, inspectors collected 3 adult Mexican fruit flies near El Cajon in San Diego County during the period of April 25 to May 5, 1990. Inspectors also found 2 adult Mexican fruit flies near Compton in Los Angeles County during the period of May 3 to May 8, 1990.

The regulations in § 301.64-3 provide that the Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine shall list as a quarantined area each State, or each portion of a State, in which the Mexican fruit fly has been found by an inspector, in which the Deputy Administrator has reason to believe the Mexican fruit fly is present, or that the Deputy Administrator considers necessary to regulate because of its proximity to the Mexican fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Mexican fruit fly occurs. Less than an entire quarantined State is designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine and regulations that impose restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed with respect to the interstate movement of these articles; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of the Mexican fruit fly.

Accordingly, we are designating California as a quarantined State and designating as regulated areas a portion of Los Angeles County near Compton

and a portion of San Diego County near El Cajon as regulated areas. The exact description of the regulated areas is in the rule portion of this document.

The effect of this action is to impose restrictions on the interstate movement of regulated articles from regulated areas in California into or through Arizona, Florida, Guam, Hawaii, Puerto Rico, Texas, the Virgin Islands of the United States, and certain parishes in Louisiana.

There does not appear to be any reason to designate other additional regulated areas in California. California has adopted and is enforcing regulations imposing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed on the interstate movement of regulated articles under this subpart.

Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this rule without prior opportunity for public comment. Immediate action is necessary to prevent the Mexican fruit fly from spreading into noninfested areas of the United States.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments received within 60 days of publication of this interim rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register, including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than \$100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This regulation affects the interstate movement of regulated articles from portions of Los Angeles and San Diego Counties, California. The small entities that may be affected by this regulation are approximately 328 fruit/produce markets, 6 flea markets; 78 nurseries, 1 community garden, 146 produce vendors, 1 large commercial grower of mainly avocados and citrus on approximately 650 acres, and 200 small commercial growers of mainly avocados and citrus on a total of approximately 800 acres. These entities comprise less than 1 percent of the total number of similar enterprises operating in the State of California.

It appears that most of these small entities sell regulated articles primarily for local intrastate, not interstate markets, and would therefore not be affected by this regulation. Also, a number of these small entities sell other items in addition to the regulated articles so that the effect, if any, of this regulation on these entities will be minimal.

Further, the effect of this regulation on those entities that do move regulated articles interstate will be minimized by the fact that regulated articles from regulated areas will remain unaffected by the regulations, provided they are not shipped into or through Arizona, Florida, Guam, Hawaii, Puerto Rico, Texas, the Virgin Islands of the United States, and certain parishes in Louisiana. In addition, the availability of treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations, will allow interstate movement of most articles without significant added costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, subpart V).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants.

(Agriculture), Quarantine, Transportation, Mexican fruit fly.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.64 [Amended]

2. In § 301.64(a), the phrase "the State of Texas" is changed to read "the States of California and Texas".

3. Section 301.64-3(c) is amended by adding the description of the regulated areas for Los Angeles and San Diego Counties, California, immediately prior to the entry for Texas:

§ 301.64-3 Regulated areas.

* * * * *

(c) * * *

California

Los Angeles County. That portion of the county, in the Compton area, bounded by a line drawn as follows: Beginning at the intersection of Van Ness and Manchester Avenues; then east along Manchester Avenue until it becomes Firestone Boulevard; then east along this boulevard to its intersection with Garfield Avenue; then south along this avenue to its intersection with Imperial Highway; then east along this highway to its intersection with Paramount Boulevard; then south along this boulevard to its intersection with Carson Street; then west along this street to its intersection with Cherry Avenue; then south along this avenue to its intersection with Wardlow Road; then west along this road to its intersection with Interstate Highway 405; then northwest along this highway to its intersection with Santa Fe Avenue; then north along this avenue to its intersection with Carson Street; then west along this street to its intersection with Cota Avenue; then north along this avenue to its intersection with Torrance Boulevard; then east along this boulevard to its intersection with Arlington Avenue; then north along this avenue to its intersection with Van Ness Avenue; then north along this avenue to the point of beginning.

San Diego County. That portion of the county, the El Cajon area, bounded by a line drawn as follows: Beginning at the intersection of Fanita Drive and Mission Gorge Road; then east along Mission Gorge Road to its intersection with Woodside Avenue; then northeast along this avenue to its intersection with State Highway 67; then northeast along this highway to its intersection with Mapleview Street; then northeast along this street to its intersection with Lake Jennings Park Road; then southeast along this road to its intersection with Olde Highway 80; then northeast along this highway to its intersection with Pecan Park

Lane; then east along this lane to its intersection with Rios Canyon Road; then southeast along this road to its intersection with Ruis Road; then southeast along an imaginary line to the north end of Lake View Lane; then southwest and southeast along this lane to its intersection with La Cresta Boulevard; then south along this boulevard to its intersection with Suncrest Boulevard; then south along this boulevard to its intersection with Crest Drive; then south along this drive to its end; then south along an imaginary line to the north end of Fern Canyon Road; then southwest along this road to its intersection with Jamach Hills Road; then southwest along this road to its intersection with Alta Loma Drive; then southwest along this drive to its intersection with Jamul Drive; then northwest along this drive to its intersection with Steele Canyon road; then north along this road to its intersection with Willow Glen Drive; then west along this drive to its intersection with Jamacha Road; then west along this road to its intersection with Campo Road; then west along this road to its intersection with State Highway 94; then west along this highway to its intersection with Brancroft Drive; then north along this drive to its intersection with Crossmont Boulevard; then west along this boulevard to its intersection with La Mesa Boulevard; then northeast along this boulevard to its intersection with Grossmont Center Drive; then northwest along this drive to its intersection with Fletcher Parkway; then northeast along this parkway to its intersection with Navajo Road; then west along this road to its intersection with Fanita Drive; then north along this drive to the point of beginning.

Done in Washington, DC, this 26th day of June 1990.

James W. Glosser,
Administrator, Animal and Plant Health
Inspection Service.

[FR Doc. 90-15320 Filed 6-29-90; 8:45 am]
BILLING CODE 3410-34-M

Federal Crop Insurance Corporation

7 CFR Part 400

[Docket No. 7943S]

Suspension and Debarment; Correction

AGENCY: Federal Crop Insurance
Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) published a technical amendment in the *Federal Register* on May 1, 1990, at 55 FR 18097, correcting the previously published final rule dated February 13, 1987, at 52 FR 4591, which added a new subpart E to the General Administrative Regulations (7 CFR 400 subpart E—Suspension and Debarment). In the initial publication of February 13, 1987, the citation for the

Suspension and Debarment Regulations of the U.S. Department of Agriculture (USDA) was incorrect. Additionally the technical amendment published May 1, 1990 also contained an incorrect citation for the Suspension and Debarment Regulations of the U.S. Department of Agriculture. This notice is published to correct both errors.

EFFECTIVE DATE: July 2, 1990.

ADDRESSES: Written comments on this correction should be sent to Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: In FR Doc. No. 90-10066 appearing at 55 FR 18097 § 400.41 is corrected to read as set forth below:

The authority citation for part 400 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

§ 400.41 Suspension and Debarment.

The provisions of 48 CFR subparts 9.4 and 409.4 shall be applicable to all FCIC suspension and debarment proceedings, except that, the authority to suspend or debar is reserved to the Manager, FCIC, or the Manager's designee.

Done in Washington, DC, on June 26, 1990.

David W. Gabriel,

Acting Manager, Federal Crop Insurance
Corporation.

[FR Doc. 90-15330 Filed 6-29-90; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 724]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service,
USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to domestic markets during the period from July 1 through July 7, 1990. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local

administration of the lemon marketing order.

DATES: Regulation 724 (7 CFR Part 910) is effective for the period from July 1 through July 7, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture (Department), Room 2524-S, P.O. Box 96456, Washington, D.C. 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 910 (7 CFR Part 910), as amended, regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Market Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities as well as larger ones.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,000 lemon producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The California-Arizona lemon industry is characterized by a large number of growers located over a wide area. The production area is divided into three districts which span California

and Arizona. The largest proportion of lemon production is located in District 2, Southern California, which represented 57 percent of total production in 1988-89. District 3 is the desert area of California and Arizona and represented 31 percent of 1988-89 production. District 1 in Central California represented 12 percent. The Committee's estimate of 1989-90 production is 39,324 cars (one car equals 1,000 cartons at 38 pounds net weight each), as compared with 41,759 cars during the 1988-89 season.

The three basic outlets for California-Arizona lemons are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona lemons. The Committee estimate that about 42 percent of the 1989-90 crop of 39,324 cars will be utilized in fresh domestic channels (16,500 cars), compared with the 1988-89 total of 16,500 cars, about 41 percent of the total production of 41,759 cars in 1988-89. Fresh exports are projected at 22 percent of the total 1989-90 crop utilization compared with 19 percent in 1988-89. Processed and other uses would account for the residual 36 percent compared with 39 percent of the 1988-89 crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 910 are intended to provide benefits to growers. Growers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of lemons in the market throughout the marketing season.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the lemon marketing order are required by the Committee from handlers of lemons. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance grower revenue. Prices for lemons tend to be relatively inelastic at the grower level. Thus, even a small

variation in shipments can have a great impact on prices and grower revenue. Under these circumstances, strong arguments can be advanced as to the benefits of regulation to growers, particularly smaller growers.

At the beginning of each marketing year, the Committee submits a marketing policy to the U.S. Department of Agriculture (Department) which discusses, among other things, the potential use of volume and size regulations for the ensuing season. The Committee, in its 1989-90 season marketing policy, considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Rodriguez. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on June 26, 1990, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended that 400,000 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1989-90 marketing policy. This recommended amount is 10,000 cartons above the estimated projections in the shipping schedule.

During the week ending on June 23, 1990, shipments of lemons to fresh domestic markets, including Canada, totaled 398,000 cartons compared with 367,000 cartons shipped during the week ending on June 24, 1989. Export shipments totaled 176,000 cartons compared with 167,000 cartons shipped during the week ending on June 24, 1989. Processing and other uses accounted for 278,000 cartons compared with 120,000 cartons shipped during the week ending on June 24, 1989.

Fresh domestic shipments to date this season total 14,752,000 cartons compared with 14,598,000 cartons shipped by this time last season. Export

shipments total 6,924,000 cartons compared with 7,373,000 cartons shipped by this time last season. Processing and other use shipments total 11,447,000 cartons compared with 14,994,000 cartons shipped by this time last season.

For the week ending on June 23, 1990, regulated shipments of lemons to the fresh domestic market were 398,000 cartons on an adjusted allotment of 393,000 cartons which resulted in net overshipments of 5,000 cartons. Regulated shipments for the current week (June 24 through June 30, 1990) are estimated at 400,000 cartons on an adjusted allotment of 395,000 cartons. Thus, overshipments of 5,000 cartons could be carried over into the week ending on July 7, 1990.

The average f.o.b. shipping point price for the week ending on June 23, 1990, was \$13.71 per carton based on a reported sales volume of 398,000 cartons compared with last week's average of \$14.04 per carton on a reported sales volume of 415,000 cartons. The season average f.o.b. shipping point price to date is \$13.47 per carton. The average f.o.b. shipping point price for the week ending on June 24, 1989, was \$14.52 per carton; the season average f.o.b. shipping point price at this time last season was \$12.06 per carton.

The National Agricultural Statistics Service indicates a 1989-90 California-Arizona lemon crop of about 38,800,000 cartons, three percent less than the 1988-89 utilized production total of 40,000,000 cartons. However, 1989-90 fresh domestic use may total 16,500,000 cartons, about equal to that in 1988-89, as indicated in the Committee's schedule of weekly shipments.

The Department's Market News Service reported that, as of June 26, demand for first-grade fruit ranging in size from 75 to 140 is good and the market is "about steady" for all grades and sizes of lemons. At the meeting, most Committee members characterized demand as good on all sizes and grades of lemons. The Committee unanimously recommended volume regulation for the period from July 1 through July 7, 1990.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1989-90 season average fresh on-tree price is estimated at \$8.83, 118 percent of the projected season average fresh on-tree parity equivalent price of \$7.50 per carton. The 1988-89 season average fresh equivalent on-tree price for California-Arizona lemons was \$7.27 per carton, 105 percent of the 1988-89 parity equivalent price.

Limiting the quantity of lemons that may be shipped during the period from July 1 through July 7, 1990, would be

consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until June 28, 1990, and this action needs to be effective for the regulatory week which begins on July 1, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

PART 910—[AMENDED]

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Note: This section will not appear in the Code of Federal Regulations.

2. Section 910.724 is added to read as follows:

§ 910.724 Lemon Regulation 724.

The quantity of lemons grown in California and Arizona which may be

handled during the period from July 1 through July 7, 1990, is established at 400,000 cartons.

Dated: June 27, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-15337 Filed 6-28-90; 6:45 am]

BILLING CODE 3410-02-M

7 CFR Part 928

[Docket No. FV-90-167FR]

Approval of Expenses and Assessment Rate for the Marketing Order Covering Papayas Grown in Hawaii

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule approves a budget authorizing expenditures and establishes an assessment rate for the 1990-91 fiscal year (July 1-June 30) under Marketing Order No. 928. The expenditures and assessment rate are needed by the Papaya Administrative Committee (PAC) established under this order to pay its expenses and collect assessments from handlers to pay those expenses. This action will enable the PAC to perform its duties and the marketing order to operate.

EFFECTIVE DATES: July 1, 1990 through June 30, 1991.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96458, room 2525-S, Washington, DC 20090-6458; telephone: (202) 475-3918.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 928 [7 CFR part 928] regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are about 120 handlers of Hawaiian papayas subject to regulations under the marketing order covering papayas grown in Hawaii and about 345 papaya producers in Hawaii. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual receipts of less than \$500,000, and small agricultural services firms are defined as those whose annual receipts are less than \$3,500,000. The majority of the handlers and producers may be classified as small entities.

This marketing order, administered by the U.S. Department of Agriculture (Department), requires that the assessment rate for a particular fiscal year shall apply to all assessable papayas handled from the beginning of such year. An annual budget of expenses is prepared by the PAC and submitted to the Department for approval. The PAC members are handlers and producers of Hawaiian papayas. They are familiar with the PAC's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the PAC is derived by dividing anticipated expenses by the expected pounds of assessable papayas shipped. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the PAC's expected expenses. The annual budget and assessment rate are usually acted upon by the PAC shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the PAC will have funds to pay its expenses.

A proposed rule concerning the 1990-91 budget was published in the Federal Register (55 FR 22797, June 4, 1990). Comments on the proposed rule were invited from interested persons until

June 14, 1990. No comments were received.

The PAC met on May 3, 1990, and unanimously recommended a 1990-91 budget with expenditures of \$827,837. The 1990-91 budget is similar in scope to the \$814,030 budgeted for 1989-90. The 1990-91 budget contains \$367,837 for program administration, \$400,000 for advertising and promotion, and \$60,000 for research and development. The budget increase is primarily due to increases for employee salaries, retirement plan contributions, and PAC travel. The advertising, promotion, and research projects will be submitted to the Department for approval as soon as the 1990-91 budget is approved.

The PAC also unanimously recommended an assessment rate for 1990-91 of \$0.0085 per pound of assessable papayas shipped, the same rate as applied in 1989-90. PAC income for 1990-91 is expected to total \$853,660. Assessment income, estimated at \$552,500, is based on projected shipments of 65,000,000 pounds of assessable papayas. Additional income includes \$200,000 in promotional grants from the Hawaii Department of Agriculture and \$63,360 from the USDA's Foreign Agricultural Service. Further income includes \$7,800 from the Japan Inspection Program, \$18,000 from the Japan Trade Show, and \$12,000 from miscellaneous sources including interest. Projected 1990-91 income over expenses (\$25,823) is designed to increase the PAC's relatively low operating reserve, projected at \$37,201 on July 1, 1990.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This final rule adds new § 928.220 under this marketing order, based on the PAC's recommendations and other information.

After consideration of all relevant matter presented, the information and recommendations submitted by the PAC, and other available information, it is found that this action will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the *Federal Register* because approval of the expenses and assessment rate must be expedited. This marketing order's fiscal year begins on July 1, 1990, and the PAC needs sufficient funds to pay its expenses which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 928 is amended as follows:

PART 928—PAPAYAS GROWN IN HAWAII

1. The authority citation for 7 CFR part 928 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. New § 928.220 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 928.220 Expenses and assessment rate.

Expenses of \$827,837 by the Papaya Administrative Committee are authorized, and an assessment rate of \$0.0085 per pound of assessable papayas is established for the fiscal year ending June 30, 1991. Any unexpended funds from the 1989-90 fiscal year may be carried over as a reserve.

Dated: June 28, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-15322 Filed 6-29-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 563 and 563b

[Docket No. 90-1251]

RIN 1550-AA14

Capital Distributions by Savings Associations

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (the "Office") is adopting a rule to apply a uniform regulatory

approach to capital distributions such as dividends, stock repurchases and cash-out mergers by savings associations regulated by the Office. This final regulation utilizes a tiered approach keyed to an association's satisfaction of its capital requirement, including any applicable individual minimum capital requirement, after giving effect to such transactions and gives associations meeting their fully phased-in capital requirements greater flexibility to engage in such capital distributing activities than associations who must build their capital levels to reach fully phased-in capitalization.

EFFECTIVE DATE: August 1, 1990.

FOR FURTHER INFORMATION CONTACT:

Valerie J. Lithotomos, Attorney, (202) 906-6439, John F. Connolly, Assistant Chief Counsel for Capital Markets, (202) 906-6465, Corporate and Securities Division; Julie L. Williams, Deputy Chief Counsel for Securities and Corporate Structure, (202) 906-6549; Chief Counsel's Office; J. Douglas Gordon, Financial Economist, Financial Analysis Division, (202) 906-6775, Office of the Chief Economist; Michael P. Scott, Senior Policy Analyst, (202) 331-4590, Supervision; Robyn Dennis, Senior Project Manager (202) 331-4572, Supervision; Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: This final regulation treats in a uniform manner capital distributions by savings associations, including dividends, stock repurchases and cash-out mergers. The general approach being adopted is a tiered, "safe-harbor" system keyed to the continued sound capitalization of an association after giving effect to such transactions. This approach somewhat limits such transactions by associations with capital below their fully phased-in capital requirements unless the Office has either raised no objection or given prior written approval. On the other hand, it gives other associations, those that meet their fully phased-in capital requirements and have not been notified by the Office that they are associations in need of more than normal supervision, significant management discretion to effect such transactions out of capital in excess of their fully phased-in capital requirements.

This final regulation is being adopted by the Office but was proposed by its predecessor agency, the Federal Home Loan Bank Board (the "FHLBB"). On August 9, 1989, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA") was enacted. FIRREA

established the Office as the primary federal regulator of the safety and soundness of all savings associations and their holding companies. FIRREA abolished the FHLBB effective 60 days after the statute's enactment. Section 401(h) of FIRREA provided, however, that orders, resolutions, determinations, and regulations of the FHLBB in effect on FIRREA's date of enactment were to remain in force and effect until modified, terminated, set aside, or superseded in accordance with applicable law by the appropriate successor agency. The Office is the successor federal agency responsible for the continuation of this rulemaking in the interest of protecting the safety and soundness of savings associations. The Office is adopting this final rule under its authority to issue regulations to provide for the safe and sound operation of savings associations under sections 3(b)(2), 3(e)(1), and 4 of the Home Owners Loan Act, 12 U.S.C. 1462a(3)(b)(2), 1462a(e)(1) and 1463.

I. Reasons for Amending the Current Approach to Capital Distributions

The Office believes that uniform treatment of these transactions by regulation provides a consistent policy regarding savings associations' capital needs and the necessity of preserving and enhancing the capital level of all associations. Adequate capital is essential to the safe and sound operation of savings associations because it provides a buffer to absorb losses resulting from associations' operational and financial policies. Furthermore, in order to protect their equity interests and the market for their shares, investors may impose a prudential discipline on associations' management and on their policies and strategies. A uniform approach addresses the Office's concerns regarding associations' distribution of their capital, which serves to reduce the capital cushions helping to protect the safety and soundness of savings associations from the effects of financial loss.

In formulating a rule, however, the Office recognizes that it is imperative not to discourage capital formation or much needed investment into savings associations by financially solid investors. To facilitate such investment, the Office seeks to assure investors that the savings associations in which they have equity stakes will be subject to consistent, reasonable regulation of their capital and capital distributions. Such regulation must require that sufficient capital be invested in associations to ensure their safe and sound operation but also should permit

investors to redeploy any surplus capital to serve their investment objectives.

To protect the safety and soundness of the association while encouraging such capital formation, the Office is adopting a safe-harbor approach, allowing capital distributions without specific approval by associations within parameters set by the Office. This safe-harbor approach predicates an association's ability to make such preapproved capital distributions on the association's capital level and supervisory condition. This rule enables the owners of associations meeting their fully phased-in capital requirements and not in need of more than normal supervision to redeploy capital in excess of their fully phased-in levels ("surplus capital") to meet their own business needs and investment objectives. For example, a holding company owning an association with surplus capital may wish to shift that surplus capital to other subsidiaries in light of their current business needs and subsequently to reinvest such capital in the association if the association's capital needs increase. Other shareholders of a savings association may simply be seeking a reasonable return on their investment. In the interest of the safety and soundness of savings associations, however, the safe-harbor seeks to ensure that savings associations making such capital distributions remain soundly capitalized after giving effect to the capital distributions.

II. Current Treatment of Capital Distributions; Dividends, Stock Repurchases and Cash-Out Mergers

Dividend payments, stock repurchases, and cash-out mergers are currently treated in dissimilar ways despite their similar economic consequences for an association's capitalization. The treatment of dividend payments is based on the type of transaction and on factors such as whether and how long ago the association converted from mutual to stock form and whether an acquisition of control of the association by a holding company or other party resulted in the imposition of dividend restrictions. Stock repurchases are currently only controlled by regulation if the association has converted from mutual to stock form, with substantially greater restrictions applying if the conversion was within three years of the date of the proposed repurchase. Currently, *de novo* stock associations are not subject to regulatory limitation on their dividend payments or stock repurchases. Finally, cash-out mergers have been dealt with on an application-by-application basis in accordance with

evolving perspectives of the Office. The following is a discussion of the current treatment of each type of transaction.

A. Dividends

The ability of a savings association to pay dividends frequently has been subject to restriction, with such restriction varying markedly depending on whether the association is a converted association or is subject to dividend restrictions imposed as conditions to approval of a change of control or holding company application.

A converted association is prohibited from paying cash dividends if, on a *pro forma* basis, the association's regulatory capital would be reduced below its regulatory capital requirement or the amount required for the association's liquidation account. See 12 CFR 563b.3(g)(2). Converted associations also are prohibited for the first three years after conversion from paying dividends, other than stock dividends, in excess of one-half of the greater of: (1) The converted association's net income for the current fiscal year, or (2) the average of the association's net income for the current fiscal year and not more than two preceding fiscal years. See 12 CFR 563b.3(g)(3).

During the last several years, a variety of dividend restrictions have been imposed, some on a case-by-case basis, by the Office or the FHLBB as conditions to approval of holding company and change of control applications. The FHLBB initially employed a three tier dividend approach keyed to associations' capitalization in practices implementing the FHLBB's policy statement on "Regulatory Capital Maintenance Obligations of Acquirers of associations", adopted on August 12, 1988, 53 FR 31761 (Aug. 19, 1988).

Under the current version of this three tier approach being used by the Office until this regulation becomes effective, an association with capital in excess of its fully phased-in capital requirement on a current and *pro forma* basis may pay dividends without supervisory approval up to 100 percent of its cumulative net income for the preceding eight quarters as reflected on the association's quarterly reports to the Office, less dividends previously paid in the period. If an association satisfies its current regulatory capital requirement, but does not meet its fully phased-in capital requirement, the association may not pay dividends without prior approval of its Supervisory Agent. An association is prohibited from paying a dividend if its capital is below, or would fall below, its regulatory capital requirement after paying the dividend.

B. Stock Repurchases

Currently, the only general restrictions on stock repurchases by savings associations are the restrictions applicable to stock repurchases by converted associations, which are the same restrictions applicable to dividend payments by such converted associations. This includes the 50 percent of net income test if the association converted within three years of the date of the proposed dividend or repurchase. See 12 CFR 563b.3(g)(2) and (g)(3). Furthermore, the FHLBB's Corporate Governance II proposal would have provided also that stock repurchases by all associations be treated in the same manner as dividend payments. Accordingly, such repurchases would have been permitted only if the association on a *pro forma* basis would continue to meet its regulatory capital requirement.

In addition, no converted association may repurchase any of its stock from any person for three years after conversion with the exception of: (i) A repurchase on a *pro rata* basis pursuant to an offer approved by the Office and made to all shareholders of such association, (ii) the repurchase of qualifying shares of a director, or (iii) the purchase on the open market by the association's tax-qualified or non-tax-qualified employee stock benefit plan in an amount reasonable and appropriate to fund the plan. See 12 CFR 563b.3(g)(1). Additionally, § 563b.3(g)(4) preapproves open market repurchase programs provided that the following conditions are met: (i) No more than 5 percent of the association's or holding company's outstanding capital stock is to be repurchased during any six-month period, (ii) the association's ratio of regulatory capital to total liabilities would not be reduced below 8 percent of total liabilities, and (iii) the repurchases would not adversely affect the financial condition of the association. Board Res. No. 88-31, Jan. 20, 1988, 53 FR 2477 (Jan. 28, 1988).

C. Cash-Out Mergers

Cash-out mergers can have similar effects to dividends and stock repurchases, although the analysis is more subtle. From the perspective of the acquiring thrift, a cash-out merger is a purchase of an asset—albeit, a comparatively large purchase and one that carries both assets and liabilities and hence increases the leverage of the resulting entity. From the perspective of the safe and sound operation of the acquiring and resulting association and the deposit insurance system, however, the transaction represents a cash

payment by the acquirer to the shareholders of the acquired association without a corresponding decrease in the association's liabilities. Consequently, the new combined association has less capital to support the same level of assets, thereby decreasing its capital-to-assets ratio. The greater leverage of the resulting entity is a reflection of the system-wide reduction in net worth. To demonstrate the similarity between a cash-out merger and a stock repurchase, the following example is illustrative. Assume that a merger was effected through payment to the acquired thrift's stockholders of shares of new "class B" stock issued by the acquiring thrift. Subsequently, the resulting entity repurchases all of the class B stock. The net effect would be the same from an economic perspective as if the merger had originally been a cash-out merger.

In considering the proposed approach to cash-out mergers, it is worthwhile noting that the Federal Reserve Board ("FRB") has adopted a policy against diminution in capital strength to support expansion proposals.¹ Under this policy, the FRB generally will only approve an expansion proposal if, before consummation of the acquisition, the acquiring bank raises new equity capital replacing most of its cash outlay for the acquisition and/or commits to raise additional new capital within a short time period to replace the remainder of its cash outlay.

III. The Proposal

A. The Regulation

The Federal Home Loan Bank Board, the predecessor agency to the Office, issued its proposed capital distribution rule,² which was keyed to the

soundness of an association's capitalization and the safety of its operation, on August 7, 1989. Board Res. No. 89-2342, 54 FR 33926 (August 17, 1989). The supplemental information to the proposal discussed at length the Board's rationale for its proposed regulation and specifically requested comment on designated issues and alternative approaches. A summary of the proposal is set forth below because the Office, after full consideration of the comments received and discussed below, has decided that it is desirable in the interest of safety and soundness to adopt this final rule patterned closely after the proposal with certain modifications as also set forth below. The modifications are being made in response to the comments received and in light of further deliberations of the issues involved by the Office with knowledge of the statutory changes made by FIRREA.

The proposed regulation provided for three tiers of associations. The three tiers were: (1) Tier 1, an association that has net capital exceeding its fully phased-in capital requirement and that was rated in one of the top two categories of the MACRO system; (2) tier 2, an association with either (a) net capital³ above its regulatory capital requirement but below its fully phased-in capital requirement, or (b) net capital that would qualify it for tier 1, but that was not rated in one of the top two categories of the MACRO system and (3) tier 3, an association that has net capital below the amount of its regulatory capital requirement.

An association would have been considered to be in a lower tier, such as tier 2 instead of tier 1, if its capital would fall into the lower tier either immediately prior to, or on a *pro forma* basis after giving effect to, a proposed capital distribution. The percentage by which a tier 1 association's net capital-to-assets ratio would exceed the ratio of its fully phased-in capital requirement to its assets was referred to as its "surplus capital ratio".

A tier 1 association would have had the greatest discretion to make capital distributions. The proposal permitted a tier 1 association without application to make aggregate capital distributions during a calendar year up to the amount that would reduce its surplus capital ratio to one-half of its surplus capital ratio at the beginning of the calendar year, as adjusted to reflect its net

¹ See *Citicorp*, 72 Fed. Res. Bull. 497 (1986). See, *Security Pacific Corporation*, 72 Fed. Res. Bull. 800 (1986); *New York Company, Inc.*, 74 Fed. Res. Bull. 257, 264-265 (1988).

² In brief, the Office considers the following transactions, as defined in the proposed regulation, to be "capital distributions" subject to the tiered approach. First, all non-stock dividends (in cash or in kind) on and repurchases of an association's common or preferred stock, are defined as capital distributions, as are repurchases of such stock. All of these transactions entail the payout of a savings association's capital to its shareholders or to those investors with entitlements to become shareholders. The term "capital distribution" also encompasses cash-out mergers, as defined above, because they cause the acquiring or resulting association to have a lower capital-to-assets ratio on a *pro forma* basis than the acquiring association had before giving effect to the transaction. Finally, the Office would be authorized to find that other transactions involving the payout of capital by an association are capital distributions to be subject to this regulation.

³ Net capital was an association's capital as defined under generally accepted accounting principles ("GAAP capital") plus qualifying subordinated debt and redeemable preferred stock.

income to date during the calendar year. If the association wished to make capital distributions in an amount greater than the "safe-harbor" standard, it was required to obtain advance regulatory approval. This limit on tier 1 associations' capital distributions was thought necessary to prevent rapid capital decreases by such associations (particularly those only temporarily meeting the tier 1 criteria) because accounting information is imperfect, net worth levels can change quickly, and association-specific conditions may make a capital distribution contrary to the interest of safety and soundness.

Under the proposal, associations that qualified as tier 2 associations on either a current or *pro forma* basis would not have been authorized to make capital distributions except upon advance written approval by the Office's supervisory staff in accordance with Office guidelines issued to ensure fair and uniform national implementation of the proposal in accordance with the Office's national policies. The proposed tier 2 treatment generally was intended to force tier 2 associations to build their capital levels through the retention of earnings while simultaneously adopting an applications process to provide relief in appropriate circumstances. It also sought to provide an incentive through the tiered system in this and other regulations for such associations to attain compliance with their fully phased-in capital requirements and to benefit from concomitant increased management discretion in advance of the required compliance dates under the Office's regulations. The Office believes that it is crucial for all associations to strive to build their capital above their minimum capital requirements and to attain fully phased-in capitalization as rapidly as possible.

The proposal prohibited capital distributions by tier 3 associations because they did not meet even their minimum capital requirements. This treatment was based on the premise that protection of the safety and soundness of such associations and the deposit insurance system demanded that tier 3 associations preserve any existing capital and dedicate any earnings to building their capital.

The requirements of the proposal would have applied generally to all associations, including those with current outstanding dividend limitation agreements. The proposal would have supplanted all more lenient dividend agreements and associations with more restrictive dividend agreements could have complied with the proposed standards providing notice to the

supervisory staff, unless supervisory objection was received.

The proposal's thresholds for capital distributions were keyed to whether associations had net capital equal to their minimum regulatory capital requirements or fully phased-in capital requirements under former 12 CFR 563.13, 563.14, and 563.14-1. The proposal expressly stated that its tiers would be adapted to any future changes to associations' capital requirements, including but not limited to the adoption of risk-based capital regulations under consideration at that time by the Office's predecessor agency and other federal banking agencies and any capital requirements imposed by FIRREA. Accordingly, references in the proposal to the terms regulatory capital, regulatory capital requirement and fully phased-in capital requirement were stated to relate not only to the then-current regulations (§§ 561.13, 563.13 and 563.14) but also to any successors to those regulations.

The proposal also stated the intent that the tiered approach be used as a guide for various types of corporate restructurings and reorganizations. One such use was in establishing the amount of proceeds from a mutual-to-stock conversion by an association that its holding company would be permitted to retain. The amount permitted would depend upon the capital tier into which the association fell on a *pro forma* basis. Because such a transaction is the economic equivalent of the association receiving all of the conversion proceeds and then paying a dividend to the holding company, under the proposal, the amount of proceeds retained by the holding company would be aggregated with the association's other capital distributions subject to the ceiling for the association's capital tier.

Another transaction that the proposal stated would be appropriate to treat as a capital distribution was the capitalization of a holding company in a reorganization. Under the proposal's standards, the amount of capital infused into the newly formed holding company by the association would be aggregated with other capital distributions for the period and would be limited by application of the tiered ceilings.

B. Specific Comments Solicited

The FHLBB, in addition to seeking comment on the entire proposal, expressly sought comment on specific alternative provisions. First, the proposal solicited comment on the appropriate treatment of growth in the regulation, although the proposal also discussed the likelihood that growth issues would be dealt with separately in

accordance with FIRREA and the Office's policies. It should be noted, however, that the proposal limited capital distributions by tier 1 associations without supervisory approval to the extent that their growth reduced their surplus capital ratios to their permitted annual capital distribution floors. Second, the proposal solicited comment on what other types of capital distributions should be determined to be capital distributions either explicitly in this regulation or by the proposal's provision permitting the Office to make a subsequent finding that an activity constitutes a capital distribution. Third, the proposal also sought views on the appropriate treatment of capital distributions related to employee stock option plans. Fourth, the proposal also inquired about the appropriate treatment of preferred stock, as well as the legal and financial consequences for associations of a regulatory prohibition on the payment of dividends on preferred stock. Finally, the proposal sought a remedy, without excessively complicating the regulatory scheme, for the potential for associations to make capital distributions up to their permissible limits early in a year, perhaps anticipating significant losses later in the year.

In requesting comment on alternative regulatory approaches, the proposal also inquired whether the use of a sliding-scale approach would be preferable to the proposed tiered approach. Another option discussed was an earnings approach patterned after the traditional approach under dividend agreements of limiting capital distributions by associations not meeting their fully phased-in capital requirements to 50 percent of net income for the prior eight quarters and limiting capital distributions by tier 1 associations to 100 percent of net income for such period. The proposal raised the inquiry whether this approach would improve tier 2 associations' ability to raise their capital levels by facilitating market access. Finally, the proposal sought comment on the elimination of either the 50 percent of current net income restriction or any restriction for capital distributions by tier 1 associations.

IV. Analysis of Comments Received

The Office has fully considered the substantial number of comments received on all aspects of the proposal and has modified the proposal in a number of aspects based on these comments. Many of the comments received are explicitly discussed below, although all of the comments were

considered. The discussion below of the comments received sets forth the Office's analysis of the comments and the Office's rationale for changes that it has decided to make or to refrain from making after consideration of the comments. Following discussion of the comments, this text sets forth a summary of the modifications made from the proposed regulation.

The Office received 30 comments regarding the proposed capital distributions rule. The majority of the comments (16) were submitted by associations. Of the remaining comments, the Office received 5 comments from law firms representing savings associations, 3 each from holding companies of savings and loan associations and investment banking firms, 2 from private individuals, and 1 from a trade association representing associations.

A. The Rulemaking

Several commenters argued that the regulation was unnecessary in light of the capital regulation to be adopted by the Office pursuant to the mandate of FIRREA or discussed the need for the Office to conform the proposed regulation to the capital regulation. Several commenters also requested an extension of the comment period for this regulation, partially based on a need to assess the new capital regulation. The Office considered these comments but determined that provisions restricting capital distributions by savings associations are necessary in the interest of safety and soundness and are consistent with FIRREA, particularly because these provisions will limit associations from making excessive capital distributions that retard achievement of their fully phased-in capital requirements as promptly as possible.

New section 5(t) of the Home Owners' Loan Act ("HOLA"), added by section 301 of FIRREA, requires the Director of the Office to adopt capital standards for associations that are no less stringent than the capital standards applicable to national banks. See section 5(t)(1)(c) of HOLA, 12 U.S.C. 1464(t)(1)(c). The statutory limitations on dividend payments by national banks are set forth in sections 56 and 60 of the National Bank Act, 12 U.S.C. 56 and 60. Section 56 states, in pertinent part, as follows:

No association * * * shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by any such association, equal to or exceeding its undivided profits

then on hand, no dividend shall be made; and no dividend shall ever be made by any association * * * to an amount greater than its net profits then on hand * * * 12 U.S.C. 56.

Section 60 states, in part, that:

The approval of the Comptroller of the Currency shall be required if the total of all dividends declared by such association in any calendar year shall exceed the total of its net profits of that year combined with its retained net profits of the preceding two years less any required transfers to surplus * * * 12 U.S.C. 60.

This final rule, consistent with FIRREA's directive, on balance, is as stringent or more stringent than the standards applicable to national banks. Tier 2 associations, in particular, are being forced to attain fully phased-in capitalization faster than they would be under the national bank standards. For tier 1 associations, the approach implemented under this rule, although different, is comparable to the OCC's standards because the ability of tier 1 associations to pay out surplus capital is dependent upon the association having earnings and capital in excess of their fully phased-in capital requirements.

The Office has determined that commenters had excellent notice of the Office's intended action regarding capital distributions to provide a basis for informed comment. Commenters had notice of the comprehensive proposal for this regulation, the proposed risk-based capital regulation, and the specific capital requirements set forth in FIRREA. These issuances formed a sound basis for informed comment, particularly since the capital regulation only affects the tiering of this regulation and a number of commenters expressly premised their comments on the Office adopting the tiering structure of this regulation.

B. The General Approach: Modifications

Several commenters addressed the flexibility that various provisions of this regulation, including use of an association's MACRO supervisory rating in determining whether it is a tier 1 or tier 2 association, give to the supervisory staff to issue guidelines and to make subjective supervisory decisions regarding associations' capital distributions. Other commenters recommended following a more flexible, case-by-case approach relying upon individual determinations made by supervisory staff keyed to ensuring the safe and sound operation of savings associations.

The Office generally agrees with these latter commenters that giving flexible supervisory authority to its supervisory staff is essential to ensuring the safety

and soundness of savings associations and is consistent with the statutory mandate of FIRREA. This delegation of discretionary authority within parameters set forth in this rule and guidelines to be issued gives greater authority to those individuals with the greatest knowledge of individual associations under their charge and of safety and soundness problems presented by such associations, while ensuring the ability of the Office to oversee the fair and uniform implementation of this regulation. This approach has been adopted for many types of regulatory actions over the last several years and also is the basic regulatory and supervisory approach followed by the federal banking agencies. Finally, this approach also gives the supervisory staff the necessary flexibility to deal with the capital plans and exemption requests submitted pursuant to FIRREA by associations seeking to attain capital compliance, in some instances through securities issuances.

One commenter urged elimination of the separate treatment for capital distribution purposes for newly converted associations. The Office has determined to follow its traditional approach towards such associations for purposes of this regulation, with some modification to the conversion requirements.

C. Tier 1

The largest number of commenters stated that the proposed rule would require overly restrictive treatment of tier 1 associations, which are highly capitalized associations posing no major supervisory problems. They stated that this treatment is even more unwarranted in light of the higher capital requirements and "fully phased-in capital standards" under FIRREA. This "super-capital requirement" penalizes without cause the best capitalized savings associations, it was argued, especially those with current earnings. Commenters stated that this is the very group that should be granted greater management discretion to make business determinations and to compete in the capital and business markets without undue regulatory interference.

Some commenters also argued that there is no supervisory record supporting the need for the imposition of a "super capital requirement" on tier 1 associations, particularly in light of the fact that an association is not treated as a tier 1 association and does require supervisory approval under the tier 2 criteria if its capital will fall below its

fully phased-in capital standard on a *pro forma* basis.

Finally, a number of commenters raised the concern that overly restrictive treatment of tier 1 associations prevents or causes uncertainty regarding the ability of the owners of thrifts to recoup their investments even if the association will continue to satisfy its fully phased-in capital requirement after withdrawal of the association's surplus capital by its owners. This, in turn, it was stated, will deter investments in savings associations by strong, well-capitalized corporations and investors who need assurance of their ability to redeploy their invested capital as long as their savings association remains well capitalized.

The Office generally agrees with the goals and recommended regulatory approaches advanced by these commenters and believes that clarification of the Office's intent and certain modifications will assuage these concerns. The main reason for requiring a prior notice and objection procedure for tier 1 associations making capital distributions cutting their surplus capital ratios by more than half is that the Office wants its supervisory staff to have the opportunity to review an association's overall financial and operational condition on a *pro forma* basis before such a significant decrease in capital is permitted. One-half of an association's surplus capital ratio is a large safe-harbor, and is being expanded further by this final rule's modification to permit all of current net earnings plus one-half of surplus capital at the beginning of the year to be paid, provided that the payment would not constitute an unsafe and unsound practice. The standard for review of notices to make additional distributions above the safe-harbor is intended to ensure that the distributions are not inconsistent with the safe and sound operation of the tier 1 association. Absent such a safety and soundness problem, the Office will not raise any objection to the notice.

Some commenters recommended only requiring tier 1 associations dropping below one-half of their surplus capital ratios to provide advance notice and an opportunity for supervisory objection. One commenter recommended having associations certify that their capital would continue to exceed their fully phased-in requirements on a *pro forma* basis. The Office concurs with the first comment and has modified this final rule to adopt this recommendation. The Office does not believe that a formal certification process is necessary.

D. Tier 2

Some commenters argued that the criteria for flexibility to make capital distributions should be in compliance with current capital requirements, particularly in light of the increased capital requirements under FIRREA. Others agreed with the proposed treatment of tier 2, while others recommended a flat prohibition on capital distributions by tier 2 associations, both aimed at forcing tier 2 associations to reach fully phased-in capital as quickly as possible. The Office continues to believe that it is essential to limit associations generally from making capital distributions that would defer meeting their fully phased-in capital requirements, particularly in light of the very short phase-in period under FIRREA and the Office's capital regulation.

A few commenters contended that the higher capital requirements, new enforcement powers, and increased supervisory authority granted by FIRREA allow greater protection of safety and soundness, as well as case-by-case determinations, making it unnecessary to adopt such rigid prohibitions against capital distributions. They stated that some capital distributions, particularly dividend payments, should be permitted without application by tier 2 associations, particularly in light of the traditional 50 percent earnings approach imposed as conditions on approval of acquisition of control applications. They said that the supervisory staff under their expanded supervisory and enforcement authority could restrict capital distributions by certain tier 2 associations to less than this safe-harbor amount if necessary based on safety and soundness determinations.

The Office believes that these points have merit, and, accordingly, this final rule has been modified from the proposal to increase the "safe harbor" for capital distributions by tier 1 associations and to permit tier 2 associations to make capital distributions without a requirement for supervisory approval from 25 to 75 percent of their net income during their most recent four-quarter period, less capital distributions previously made over the same period, dependent upon how close the association is to meeting its fully phased-in capital requirement.

Tier 2 associations are divided into three sub-classifications, based upon the risk-based capital phase-in schedule contained in part 567, with the final movement from tier 2 to tier 1 based on the phase-in schedule applicable to qualifying supervisory goodwill and

impermissible subsidiaries. The distinctions between the sub-classifications in tier 2 are the risk-capital requirements applicable on January 1, 1991, January 1, 1993, and January 1, 1995.

One comment raised was that imposition of restrictions on the payment of dividends on common and preferred stock will create inducements for associations to issue varied esoteric types of debt securities with equity and convertibility features, as well as accompanying options, rights and warrants for conversion or stock purchases. It is contrary to the goal of increasing associations' equity capital to create incentives for the issuance of subordinated debt or preferred stock rather than common stock. These potential market distortions would be exacerbated by the different treatment for new and currently outstanding issuances of securities. To avoid these problems, this final rule permits a tier 2 association to make capital distributions from 25 to 75 percent of its net income over its most recent four-quarter period without supervisory approval regardless of the type of security issued or whether it is for new or outstanding securities. Furthermore, in deciding upon applications to make capital distributions exceeding the tier 2 limit, a factor the Office will regard as supporting approval of such a request would be if the association proposes to undertake a new equity offering raising its capital level consistent with an overall plan to achieve compliance with its fully phased-in capital requirements and that the net effect of such an offering will affirmatively promote the safe and sound operation of the association.

A number of other commenters recommended following an earnings approach as was done traditionally with acquisition of control applications and as was proposed in the dividend restriction proposal issued by the Office of the Comptroller of the Currency ("OCC").⁴ The Office has adopted in

⁴ The Office of the Comptroller of the Currency issued a proposed regulation on dividends on August 16, 1989. The proposal has two major components:

(a) A national bank is prohibited from paying dividends in an amount greater than its net profits then on hand after deducting its losses and bad debts.

(b) The OCC must approve the payment of any dividend if the amount of all dividends (common and preferred), including the proposed dividend, declared by the bank in any calendar year exceed the total of the bank's net profits of that year to date combined with the retained net profits of the previous two years, less any required transfers to surplus or a fund for the retirement of any preferred stock. See 54 FR 33711 (Aug. 16, 1989).

this final rule limited earnings "safe harbors" for tier 2 and has eliminated any penalty for earnings in tier 1. To achieve this agency's goals of building associations' capital levels to associations' fully phased-in capital levels as promptly as possible and ensuring maintenance of sound capitalization while attracting much needed investment from well-capitalized parties to savings associations, the Office has decided to use its own tiered approach, which is, on balance, as stringent as the earnings approach proposed by the Office of the Comptroller of the Currency.

E. Tier 3

A few commenters contended that tier 3 associations should be permitted to pay a small amount of dividends (e.g., up to 20% of earnings) if other identified criteria are satisfied. Other commenters contended that there should not be a flat prohibition on tier 3 capital distributions since special circumstances will arise, such as in working with a tier 3 association's capital plan. For example, under FIRREA, a state-chartered savings association may be required to divest itself of nonconforming subsidiaries and may seek to spin off those subsidiaries as dividends to its holding company or affiliates. Furthermore, one commenter contended that FIRREA prohibits sanctions or penalties against associations in compliance with acceptable capital plans. Supervisory staff should have discretion to deal with the capital distributions of individual associations in considering their capital plans, it was argued.

The Office believes that these concerns are adequately addressed by the final rule. As a general rule applicable to all tier 3 associations, the rule permits the Office to approve capital distributions by tier 3 associations upon the association making a compelling showing that a capital distribution would affirmatively promote its safe and sound operation. For example, an association's capital plan may envision attaining capital compliance through a stock issuance, for which the ability to pay a modest amount of dividends is essential to the ability to sell the stock.

F. Use of MACRO Ratings in Establishing Tiers

A substantial number of commenters approved of the use of associations' MACRO ratings in establishing their appropriate tier because a MACRO rating represents a summary review of an association's operations, management and risk profile. These are necessary factors to consider in addition

to capital in determining the operational flexibility that an association should have from regulatory control, although one commenter reasoned that capital should not be double-counted in MACRO and as the other controlling factor. Other comments urged the Office not to use MACRO ratings in establishing tiers for two reasons. First, the MACRO rating is a confidential examination rating, disclosed to associations for the first time within the past year, that associations are not permitted by the Office to disclose to the public. Establishing tiers based on the MACRO rating will serve to disclose the ratings. Second, because of the confidential nature of the MACRO ratings and the examination information forming the bases for the ratings, associations will not be able to explain or provide updated information regarding the rating to its depositors, shareholders and the investing public.

While the Office is sympathetic to the concern expressed by some of these comments, the Office believes that it is important to factor in the overall supervisory position of an association in determining the extent of capital distributions that the association should be permitted to make without regulatory approval. The Office, however, is modifying this final rule's means of factoring into tier 1 criteria an association's overall supervisory condition. Instead, a tier 1 association, in addition to satisfying its fully phased-in capital requirement, must not have been notified by the Office that it is an association in need of more than normal supervision, a standard incorporating an association's MACRO rating. If an association meeting its fully phased-in capital requirement has been so notified, it could be deemed either a tier 2 or tier 3 association at the discretion of the District Director. It should be noted that on December 31, 1994 and thereafter, the capital distinction between a tier 1 and tier 2 association will no longer exist because an association's minimum capital requirement will be its fully phased-in capital requirement. Thus, the only remaining distinction will be whether the association is one in need of more than normal supervision.

G. The Application and Notice Process

A number of comments recommended use of a preapproved, advance schedule of capital distributions over the coming year or other period rather than requiring approval of each capital distribution, especially quarterly dividends by tier 1 associations. The Office concurs with this suggestion to reduce the administrative burden on associations and on the Office's

supervisory staff and has incorporated this process into the final rule.

A large number of commenters said that the Office should not require separate applications for capital distributions associated with transactions otherwise requiring the submission and approval/disapproval of applications, such as cash-out mergers or holding company reorganizations. The Office never intended to require such redundant applications or notices for such capital distributions but has clarified that fact in this final rule. Furthermore, subsidiaries of savings and loan holding companies may satisfy the notice requirement of this rule by submitting the notice required under § 584.5.

H. Treatment of Cash-Out Mergers and Other Specific Types of Distributions

Several commenters requested the Office not to treat cash-out mergers as capital distributions because: (1) A cash-out merger is an "arm's length" negotiated transaction; (2) there is no conflict of interest between board of directors and shareholders approval of such transactions and their receipt of dividends and (3) the acquiring association is "purchasing" an asset with value determined by arm's length negotiation, thereby distinguishing it from dividend payments. Although the Office appreciates these points that distinguish some aspects of cash-out mergers from dividends or other capital distributions, the Office continues to view cash-out mergers as distributions of capital by the acquiring associations to the shareholders of the acquired associations. This, in turn, leverages the acquiring associations' remaining capital over a larger asset base, thereby reducing the capital buffer needed to preserve safety and soundness and to protect the deposit insurance system. Therefore, the Office believes that supervisory evaluation of the effects of such a transaction as part of consideration of the merger application is appropriate. Furthermore, the amount of capital distribution permitted should be determined by the resulting associations' *pro forma* capitalization.

A few commenters argued that ESOPs are both major parts of employees' benefit packages and valuable capital raising tools. They have been treated specially in other regulations, such as the mutual-to-stock conversion regulations, because of their significance to associations and to their employees. Accordingly, it was argued, they should not be treated the same as other capital distributions.

Similarly, it was argued that standard open market stock repurchase programs, particularly those related to ESOPs or employee dividend reinvestment plans, should not be treated the same as other capital distributions.

The Office believes that all of these comments are dealt with by the fact that, except generally for tier 3 associations, capital distributions can be made within the safe-harbor amounts or in higher amounts if approved by supervisory staff as long as they are consistent with safety and soundness. Accordingly, it is appropriate to have individual supervisory determinations for such transactions.

I. Effects of Proposed Regulation on Associations and the Capital Raising Process

Several commenters strongly expressed the view that the proposed rule would hamper the capital raising efforts that will be necessary in light of the higher capital standards under the new capital regulation required by the FIRREA. Access to the capital markets will be essential under FIRREA and under the new requirement for associations to submit capital plans. The concern expressed is that through the imposition of an unnecessarily stringent capital distributions regulation, the ability of all associations, even soundly-capitalized and well-managed associations, to raise capital will be eroded. Commenters contended that even well-capitalized associations will be prevented from paying dividends and, thus, new investments in savings associations in the form of the issuance of equity securities will be seriously discouraged and perhaps eliminated.

The sentiment was particularly strong regarding the restrictions on the ability of associations to pay dividends on their stock, which many commenters indicated is a very powerful lever to raise capital. One commenter stated that investors would be unlikely to purchase stock if the rate of return is restricted by an artificial standard unrelated to the economic ability of the association to pay the dividends.

It was repeatedly commented that the proposal will serve not only to discourage capital formation of associations, but thereby also to defeat its intended purpose of protecting the insurance fund. Making it more difficult for savings associations and their holding companies to raise capital threatens, not protects, safety and soundness, it was said. By discouraging institutional investors there would be a reduction of stock prices and the increase of the cost of capital for savings associations. One commenter

stated that not only will the regulation have a "chilling" effect on potential future investments, it may cause investors currently holding stock to liquidate their stock holdings, thereby depressing prices and making the prospect of raising additional new capital even more unlikely.

Some commenters indicated that even tier 3 associations should be allowed to make capital distributions on a case-by-case basis, because of the overriding need to attract new capital to the industry. It was suggested that tier 1 and tier 2 associations be permitted to make capital distributions up to the full amount of the excess of their capital over their required minimum capital levels.

The Office understands and agrees that capital raising will be critical in light of the higher capital standards recently imposed, and has tried to balance that goal and the objectives of the proposal in fashioning this final rule. Therefore, the Office has modified the rule to provide that there be more flexibility for tiers 2 and 3 to pay capital distributions than in the current proposal. The modification allows tier 2 associations to make distributions from 25 to 75 percent of their net income over the most recent four quarters dependent upon how close they are to meeting their fully phased-in capital requirements and to pay higher amounts upon the submission and approval of an application.

The rule has also been modified so that tier 3 associations will be given the opportunity to apply for an exception from the general prohibition against the making of capital distributions upon the making of a compelling showing to supervisory personnel that the capital distribution would affirmatively promote the association's safe and sound operation. With respect to tier 3 associations, the rule further provides that associations that, prior to the effective date of this regulation, received approval of a capital plan which provides for payments of dividends will be permitted to pay such dividends without need of an additional application and approval as long as the association remains in compliance with its capital plan.

Also, because the Office shares the commenters concerns that the ability of savings associations to raise new capital in the securities markets is of critical importance, the Office has amended the rule to provide expressly that a factor that would weigh in favor of approval of an association's request to pay additional dividends would be if the association is proposing to make a new offering of equity securities and the

overall effect of the offering and the amount of dividends proposed to be paid, on balance, would raise an association's capital level and have a beneficial effect on the safe and sound operation of the association.

Some commenters noted that few associations under the proposed rule would qualify as tier 1 associations and that the restrictions placed on tier 1 associations were unnecessarily harsh and counter-productive. The Office concurs that it is appropriate to give more flexibility to tier 1 associations than originally provided in the proposal. Therefore, the Office has modified the rule to allow a tier 1 association to make capital distributions up to 100 percent of the association's net income during the current calendar year plus the amount that would reduce by one-half its surplus capital ratio at the beginning of the calendar year with the 30-day notice, but no supervisory approval required. A tier 1 association also could make capital distributions in an amount equal to its entire surplus capital ratio if no supervisory objection was received after it provided 30-day advance written notice of the capital distribution.

To avoid unfair consequences, commenters recommended that the proposed rule be modified to permit associations, including tier 3 associations, that have participated in supervisory transactions to apply for permission to make capital distributions. The Office believes that modifying the proposed rule to permit tier 3 associations to apply for a waiver from the general prohibition against making any capital distributions addresses this concern.

J. Preferred Stock

The Office specifically asked for comments on whether preferred stock dividends should be treated differently under the proposed rule, particularly in light of associations' commitments to pay dividends and to accumulate unpaid dividends on existing classes of preferred stock. Generally, most commenters expressed the view that preferred stock dividends should be excluded from the definition of dividends for capital distributions purposes or, at minimum, differentiated from dividends on common stock. Many commenters believe that investors in preferred stock of savings associations have a high expectation to be paid dividends and want assurance that dividends will not unreasonably be withheld. Although most did not make the distinction, some commenters stated that it is desirable for the regulatory authority to look most favorably upon

the payment of dividends for noncumulative preferred stock versus cumulative preferred stock.

The overriding sentiment in the comments was that dividends on preferred stock should be treated differently from dividends on common stock regardless of what tier an association is placed in. Accordingly, it was argued that tier 3 associations be permitted to maintain consistent, if nominal, dividend policies when supported by a consistent record of profitability and capital improvement in accordance with a reasonable business plan.

The major area of concern in the comments was that the issuance of preferred stock is a fundamental mechanism for raising capital as required under FIRREA and the proposed rule will virtually eliminate the use of this mechanism. Preferred stock will be extremely difficult, if not impossible, to market, it was argued, and will demand higher rates of return if investors believe that the dividend is in question. It was suggested that associations pay dividends on preferred stock so long as the payment of such dividends does not reduce the association's capital below the minimum capital requirement in effect at that given time.

Numerous commenters requested that the Office recognize and make a distinction between and afford different treatment to (*i.e.* to grandfather associations' ability to pay dividends on preferred stock), preferred stock that was issued prior to the effective date of the proposed rule and preferred stock that is issued thereafter.

The argument was made several times that an association that has already issued preferred stock has entered into a contract with the holders of the stock and is committed to pay a specified amount to the stockholder in dividends. Because in most instances the dividends are cumulative, a failure or inability to pay the dividend does not relieve the association of its liability to pay the dividend. The liability for the unpaid dividends will continue to grow, affecting the reputation of the association and making it increasingly difficult for the association to raise new capital. One commenter stated that the proposed rule would retroactively and unilaterally alter the factors the investors relied upon in making their investment. As a result, investors will seek in the future to invest in other industries where the ground rules are not in constant danger of being changed.

Some commenters noted that depending on the terms of already existing preferred stock, preferred

stockholders may take certain actions with negative results, such as placing their own representatives on the board of directors, in the event their dividends are not paid. Two commenters stated that the inability of issuers to make dividends payments on existing preferred stock could trigger defaults and subsequent acceleration under an association's debt instruments.

Commenters also referenced the proposed rule issued by the OCC and requests were made to provide consistent treatment for insured associations as with national banks because that was the intent of FIRREA. The Office wishes to point out that this final rule is more closely tailored to the capital positions of savings associations than the OCC rule, and is, on balance, as stringent as the OCC treatment of capital distributions.

A commenter also noted that it would be inconsistent public policy for regulators to restrict dividend payments on associations' stock because this would cause unnecessary alarm in the market for all thrift securities and would inhibit their ability to raise capital. Numerous commenters were concerned that the Office may hold too limited a view of dividends and their impact on capital.

This is not the case. The Office is sensitive to the industry's capital raising ability and understands the role the ability to pay dividends plays in this process. The Office recognizes the importance of associations being able to pay dividends on stock issuances, and recognizes the particular concerns regarding the payment of dividends on preferred stock, and the consequences of non-payment. The Office also recognizes that it is important to encourage new investments in associations and that the payment of dividends affects this process. The Office believes that the modifications that it is making, as discussed above, to the amount of capital distributions associations, particularly those in tier 2, are permitted to make effectively addresses these concerns.

The Office believes, however, that a balance must be struck between the need to raise much needed capital and the need to protect adequate capital levels for the safe and sound operations of associations. The Office believes that, in attempting to strike this balance, the utilization of a prudent and reasonable approach to capital distributions becomes the overriding concern. The Office, in recognizing the importance of the industry's capital-raising ability, has modified the proposed rule to facilitate capital raising by all associations. One result of these modifications will be that

limited dividends on common and preferred stock can be paid by all associations, so long as certain conditions exist. The Office also believes that eliminating the flat prohibition for tier 3 associations to make capital distributions will alleviate some concerns of the commenters.

K. Status of Existing Agreements

The concern was raised by several commenters that the proposed rule would supersede legally binding dividend limitation agreements that are already in existence. These contracts were entered into by many acquirers of associations in good faith and were considered to be enforceable under the terms of the original agreements. It was raised that there exists a high probability that there could be challenge in court to the breaching of such agreements. It was claimed that this type of action on behalf of the Office will set a dangerous precedent that may make it difficult for the Office to find participants for future transactions. Several commenters questioned the authority of the Office allegedly to abrogate its previous agreements.

It was suggested that the proposed rule provide for the grandfathering of all existing dividends agreements, offering the makers of such agreements the option of reforming their agreements in accordance with the new rule. If this is not done, in addition to the inherent unfairness of the result, it sends a negative signal to those who would invest in the thrift industry, at a time when attracting outside capital is of paramount importance.

One commenter focused specifically on the unfairness in supervisory acquisitions and supervisory conversions of troubled or failed thrifts where the FHLBB agreed to allow acquired or recapitalized associations to operate for a specified period of years under capital and business plans that allowed the associations to systematically improve their capital position over that period of time. The proposed rule would unjustifiably burden these particular associations, it was argued, because such associations would be most likely classified in tier 3 because the terms of their capital plans do not require them to maintain capital that meets the usual regulatory capital requirements. As tier 3 associations, furthermore, they would be forbidden from making capital distributions. Another commenter requested that completed FSLIC-assisted acquisitions in which forbearances were granted be exempted because public policy would not be well served if the Office elected

to void its side in negotiated arms-length transactions.

The Office is very cognizant of the above concerns and criticisms, but, in the interests of safety and soundness has determined to adopt the position that the proposed rule supersedes less stringent dividend agreements and conditions of approval that were entered into or imposed prior to the effective date of this regulation. Agreements and conditions that are more stringent than the rule's standards, however, shall not be superseded automatically by this rule. The routine agreements and conditions imposed in connection with the approval of holding company and change of control agreements generally are considered to be less stringent than the restrictions imposed by this rule and are therefore superseded by this rule. Associations subject to more stringent agreements or conditions have the opportunity to submit a written notice to the Office for a determination, to be made within 30 days of receipt of the written notice, of whether the facts warrant the continuation of said agreements or conditions or whether this rule's standards shall apply.

Supervisory staff will analyze whether the safety and soundness concerns warranting the initial imposition of these more stringent agreements or conditions continue to exist. The Office believes it is justified in this approach because it is consistent with the intent of Congress in enacting FIRREA and the modifications discussed above to allow associations in any tier to pay capital distributions under certain circumstances, which is a more flexible approach than originally proposed. The rule, as modified, does not prohibit any association, even a tier 3 association, from making capital distributions with regulatory approval if a finding is made that the capital distribution, on balance, will affirmatively promote the safe and sound operation of the association.

L. Discrimination Against SAIF-associations

Although it was implied in several comments, it was specifically stated by one commenter that the proposed rule would make capital considerably more difficult to obtain for many Savings Association Insurance Fund ("SAIF")-associations and would discriminate against such associations in favor of Bank Insurance Fund ("BIF")-associations. The Office does not believe that the rule is discriminatory in this regard. All associations should be obligated by their regulators to adhere to prudent capital distribution standards

and the final rule is consistent with the clear intent of FIRREA.

V. Modifications Made to the Proposed Regulation

The Office has determined that it is essential to the safe and sound operation of savings associations to adopt the proposed regulation, with certain modifications noted below, for the reason set forth in issuing the proposed regulation and discussed above in addressing specific comments received. The Office has decided, however, to modify certain provisions of the proposed regulation based on comments received and the Office's further policy deliberations in light of the statutory changes made by FIRREA and the Office's corresponding regulatory amendments.

First, due to the explicit capital standards of FIRREA and the Office's risk-based capital regulation adopted on November 7, 1989, the capital measure and capital tiers used are adjusted, as anticipated in issuing the proposal and as assumed by many commenters, to correspond to the new statutory and regulatory provisions. Accordingly, this final regulation is eliminating use of the "net capital" concept incorporated in the proposed regulation. The final regulation is keyed to an association's total capital as defined in § 567.5(c) of the Office's revised capital regulation (to be codified at 12 CFR 567.5). An association's minimum regulatory capital requirement means compliance with its tangible capital, leverage ratio and risk-based requirements set forth in § 567.2 of the capital regulation, to be codified at 12 CFR 567.2. Compliance with an association's fully phased-in capital requirement means compliance with its minimum capital requirements under the statutory and regulatory standards as they would be applicable on December 31, 1994. Furthermore, this final rule clarifies that for associations to be in compliance with their minimum capital requirements or their fully phased-in requirements,⁵ they also must satisfy any applicable individual minimum capital requirement. Finally, the Office has eliminated the exclusive use of associations' MACRO ratings in determining their capital tiers. Instead, this rule excludes from tier 1 any association that has been notified that it needs more than normal supervision, a standard incorporating an association's MACRO rating.

⁵ "Fully phased-in capital requirement" as defined in this rule means an association's minimum capital requirement under the statutory and regulatory standards to be applicable on December 31, 1994.

Second, this final rule also clarifies that distributions in kind, that is non-cash distributions, are covered by this regulation. Such distributions in kind shall be valued and accounted for in accordance with generally accepted accounting principles.

Third, the provisions of the proposal controlling capital distributions by tier 1 associations are being revised to allow such associations greater discretion to make capital distributions while retaining supervisory authority to prevent a capital distribution that would constitute an unsafe and unsound practice. The safe-harbor for tier 1 associations under this final rule allows a tier 1 association to make capital distributions without supervisory approval during a calendar year up to 100 percent of its net income to date during the year plus the amount reducing its surplus capital ratio measured at the beginning of the calendar year by one-half. A tier 1 association may make capital distributions even in excess of this amount if it does not receive supervisory objection to a 30-day advance notice of the distribution, a requirement modeled on that currently applicable to dividends by associations that are subsidiaries of holding companies pursuant to 12 CFR 564.5.

Fourth, the Office has decided that in view of the need for tier 2 associations to attain fully phased-in capital compliance as rapidly as possible that this final rule generally should retain restrictions on capital distributions by tier 2 associations. This final rule, however, does permit a tier 2 association without advance supervisory approval to make capital distributions from 25 to 75 percent of its net income during its most recent four quarters, minus distributions previously made over that period, dependent upon how close they are to meeting their fully phased-in capital requirements.

Allowing this range of distributions tied to the capital level of the association prevents a flat prohibition by associations seeking access to the capital markets, while generally requiring associations to add some portion of their current net income to retained earnings. Tier 2 associations also may obtain supervisory approval to make capital distributions over these amounts for demonstrably sound reasons, which will be detailed in guidance to be issued. The final regulation facilitates the receipt of such approval by permitting the advance supervisory approval of a schedule of prospective capital distributions, rather than requiring advance written approval

of each capital distribution, such as each quarterly dividend on an issuance of preferred stock. The Office believes that this change is reasonable in light of the fact that tier 2 associations are satisfying their minimum capital requirements under FIRREA and the Office's risk-based capital rule, although the Office seeks to make such associations meet fully phased-in capitalization as promptly as feasible and definitely within the capital phase-in schedule.

Fifth, associations failing their minimum capital requirements, even if they are operating under approved capital plans, are classified for purposes of this regulation as tier 3 associations. Associations operating under approved capital plans, however, may make capital distributions consistent with their capital plans or expressly authorized by the Office in approving related transactional applications (e.g., preferred stock applications). To be able to make such capital distributions, the association must make a compelling showing that the making of capital distributions by an association affirmatively promotes its safe and sound operation.

Associations that have already received approval of a capital plan prior to the effective date of this rule, will not be required to apply again to be permitted to pay dividends envisioned by their plans, but may make payments in accordance with their approved capital plans, provided they are otherwise in compliance with such plans.

Sixth, this final rule clarifies the notification and application process under this rule, which is intended to avoid imposing an unnecessary administrative burden on associations or the Office's supervisory staff. The first such provision enables an association to satisfy the notice or approval requirements under this rule by several means. An association can receive advance approval of a schedule of capital distribution in accordance with supervisory guidance to be issued on this matter, thereby avoiding the need for individual notice of each quarterly or semi-annual dividend or of numerous stock repurchases conducted as part of a planned repurchase program. Furthermore, this notice requirement is satisfied by associations that are subsidiaries of holding companies submitting their required notices under 12 CFR 564.5.

Another alternative means of notification permits associations seeking to make capital distributions requiring supervisory approval under this rule to satisfy the notice requirement by

submission of their applications. Preapproved schedules in appropriate instances may also be used to obtain supervisory approval of capital distributions requiring such approval. Finally, an application submitted to comply with another rule also may be used to satisfy the notice of approval requirement of this rule. In the case of a submission of a capital plan, however, the burden is on the association to clearly state that an application is serving a dual purpose. Generally, determination of whether to permit the capital distribution under this rule will be treated simply as an additional matter to be resolved by the supervisory staff member dealing with the application under the other regulation.

Seventh, this final rule does not contain the express delegations of authority that were contained in the proposed regulation. The delegations will be contained in a new system reflecting the delegations being developed by the Office to facilitate access to and updating of all of its delegations of authority without undertaking rulemakings to achieve the purpose.

Eighth, this final rule states that a factor that would be regarded favorably by the Office in deciding upon applications to make capital distributions over the limits set in paragraphs (b)(1), (b)(2), and (b)(3) would be if an association is proposing to make additional issuances of equity securities that would raise the association's capital level and that, overall, with any attendant capital distributions, would have a beneficial effect on the safe and sound operation of the association.

Ninth, this final regulation simply sets forth expressly the Office's inherent authority to prohibit capital distributions by any association, even if within the safe-harbor amounts provided for its tier, if a supervisory finding is made that the capital distribution would constitute an unsafe or unsound practice.

Finally, the Office took action upon this final rule in accordance with the regulatory review procedures adopted by Federal Home Loan Bank Board Resolution No. 88-269 and published at 12 FR 13156 (April 21, 1988), as a result of action on a final rule on March 26, 1990 by the Acting Director of the Office.

Executive Order 12291

The Office has determined that this regulation does not constitute a "major rule" and, therefore, does not require the preparation of a final regulatory impact analysis.

Paperwork Reduction Act

The collection of information contained in this final rule has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1550), Desk Officer for the Office of Thrift Supervision, Washington, DC 20503, with copies to the Director, Information Services, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

The collection of information in this final rule is in 12 CFR 563.134. This information is required by the Office of Thrift Supervision to monitor dividends paid and stock repurchased by savings associations. This information will be used to ensure the safe and sound operation of the thrift industry. The likely respondents are savings associations in stock form seeking to pay dividends to their shareholders or to repurchase outstanding stock.

Estimated total annual reporting burden: 19,200 hours.

The estimated total annual reporting burden per respondent varies from 2 to 8 hours, depending on individual circumstances, with an estimated average of 4 hours.

Estimated number of respondents: 1200 savings associations.

Estimated annual frequency of responses: 4.

Regulatory Flexibility Act

It is certified that the provisions of the Regulatory Flexibility Act do not apply to this final rule because it will not have a significant economic impact on a substantial number of small entities. This is reflected by the fact that no comments on the proposed rule addressed this issue.

List of Subjects in 12 CFR Part 563 and 563b

Accounting, Advertising, Bank deposit insurance, Currency, Flood Insurance, Investments, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office hereby amends parts 563 and 563b, subchapter D, chapter V, title 12, Code of Federal Regulations, as set forth below:

Subchapter D—Regulations Applicable to all Savings Associations

PART 563—OPERATIONS

1. The authority citation for part 563 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278, (12 U.S.C. 1402a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); sec. 11, as added by sec. 301, 103 Stat. 342 (12 U.S.C. 1468); sec. 18, 64 Stat. 891, as amended by sec. 321, 103 Stat. 267 (12 U.S.C. 1828); sec. 1204, 101 Stat. 662 (12 U.S.C. 3806); sec. 202, 87 Stat. 932, as amended (42 U.S.C. 4106).

2. Section 563.134 is added to subpart E to read as follows:

§ 563.134 Capital distributions.

(a) *Definitions*—(1) *Capital distribution* means:

(i) Any dividend paid or other distribution in cash or in kind (valued and accounted for in accordance with generally accepted accounting principles) made on or with respect to any shares of an association, but not including a dividend consisting of shares of the association;

(ii) Any payment made by an association to repurchase, redeem, retire or otherwise acquire any of its shares;

(iii) Other distributions charged against the capital accounts of an association;

(iv) Any payments to shareholders of an association by an acquiring association to acquire ownership of the association, other than distributions of shares of the acquiring association; and

(v) Other types of transactions determined by the Office to entail the payout of capital by an association.

(2) *Capital* means total capital as defined under § 567.5(c) of this subchapter.

(3) *Fully phased-in capital requirement* means an association's capital requirement under the statutory and regulatory standards to be applicable on December 31, 1994, as modified to reflect any individual minimum capital requirement applicable to the association.

(4) *Minimum capital requirement* means an association's tangible capital, leverage ratio and risk-based capital requirements as required by § 567.2 of this subchapter, as modified to reflect any individual minimum capital requirement applicable to the association.

(5) *Net income* means an association's net income computed in accordance with generally accepted accounting principles.

(6) *Shares* means common and preferred stock; any securities convertible into such stock; and any options, warrants, or other rights for the acquisition of such stock.

(7) *Surplus capital ratio* means the percentage by which an association's capital-to-assets ratio exceeds the ratio of its fully phased-in capital requirement to its assets.

(8) *Tier 1 association* means an association that has capital immediately prior to, and on a *pro forma* basis after giving effect to, a proposed capital distribution that is equal to or greater than the amount of its fully phased-in capital requirement.

(9) *Tier 2 association* means an association that has capital immediately prior to, and on a *pro forma* basis after giving effect to, a proposed capital distribution that is equal to or in excess of its minimum capital requirement, but that is less than the amount of its fully phased-in capital requirement.

(10) *Tier 3 association* means an association that has capital immediately prior to, or on a *pro forma* basis after giving effect to, a proposed capital distribution that is less than the amount of its minimum capital requirement.

(b) *Limits on capital distributions*—(1) *Tier 1 Association.* A tier 1 association is authorized to make capital distributions during a calendar year up to 100 percent of its net income to date during the calendar year plus the amount that would reduce by one-half its surplus capital ratio at the beginning of the calendar year. A tier 1 association shall not make capital distributions in excess of the foregoing limit except in accordance with the notice and opportunity for objection process provided in paragraph (e) of this section.

(2) *Tier 2 Association.* A tier 2 association is authorized without the need for approval by the Office to make capital distributions in accordance with the following schedule:

(i) If an association's current capital satisfies the risk-based capital standard that would be applicable to it as of January 1, 1993, computed based on its current portfolio, it may make capital distributions up to 75 percent of its net income over the most recent four-quarter period;

(ii) If an association's current capital satisfies the risk-based capital standard that would be applicable to it on January 1, 1991, computed based on its current portfolio, it may make capital distributions up to 50 percent of its net income over the most recent four-quarter period;

(iii) If an association's current capital satisfies its current risk-based capital requirement, the association may make

capital distributions up to 25% of net income over the most recent four-quarter period; and

(iv) In computing an association's current permissible amount of capital distributions, an association must deduct the amount of capital distributions that it has previously made during the most recent four-quarter period.

A tier 2 association shall not make capital distributions in excess of these limits except in accordance with the prior written approval process provided in paragraph (e) of this section.

(3) *Tier 3 association.* A tier 3 association is not authorized to make any capital distributions:

(i) Unless it receives prior written approval granted pursuant to paragraph (e) of this section; or

(ii) In the case of an association operating in compliance with an approved capital plan, the capital distribution is consistent with the association's capital plan. A tier 3 association may submit a separate request for authorization to make capital distributions, or may make such request as part of another request or application that is related to the capital distribution. In the case of such a combined filing, however, the request for authorization to make capital distribution must be clearly identified as such.

(4) The Office may prohibit any capital distribution otherwise permitted under this section upon a determination that the making of a capital distribution would constitute an unsafe or unsound practice. Among the circumstances posing such risk would be a capital distribution by a tier 1 or tier 2 association whose capital is decreasing because of substantial losses.

(5) An association meeting the tier 1 capital criteria but that has been notified that it is in need of more than normal supervision shall be treated as a tier 2 or tier 3 association, unless the Office determines that such treatment is not necessary to ensure the association's safe and sound operation. The District Director shall have discretion to determine whether to treat the association as a tier 2 or tier 3 association for this purpose, and if treated as a tier 2 association, to establish which subset of tier 2 standards will be applicable to that association.

(6) No association may make a capital distribution prohibited by any statute or regulation, including but not limited to § 563b.3(g) of this subchapter, or prohibited by any agreement entered into by the association with the Office

(or its predecessor agencies) or the FDIC, unless:

(i) With respect to § 563b.3(g) of this subchapter, approval is granted under part 563b of this subchapter; or

(ii) With respect to other limitations, prior approval is granted pursuant to paragraph (e) of this section.

(c) *Notice or approval of capital distributions.* An association must provide its District Director with 30-day advance written notice of all proposed capital distributions whether or not supervisory approval is required under this section. For capital distributions requiring approval under this section, an association shall provide this prior notification by submission of a written application to make such capital distributions. A separate notice or application is not necessary if a notice or application providing sufficient information to the District Director is required under other Office regulations for the making of the proposed capital distribution. In such instance, the standards of this section shall be used as part of the criteria for determining the appropriateness of and appropriate amount of capital distributions to permit in approving, not disapproving, or conditioning the other application. An association has the burden of stating clearly that the notice or application submitted for other purposes is also serving as its notice or application for purposes of this section. Associations may seek approval or provide notice of prospective capital distributions by submitting schedules of such prospective capital distributions in accordance with supervisory guidance on such procedures.

(d) *Corporate reorganizations.* The tiered limits set forth above in paragraph (b) of this section shall be applicable to any direct or indirect distributions of capital to affiliates, including those in connection with corporate reorganizations.

(e) *Supervisory action.* (1) In determining whether to object to capital distributions in excess of the safe-harbor amount under paragraph (b)(1) of this section, the Office will evaluate whether the exception would be inconsistent with the safe and sound operation of the tier 1 association. In determining whether to approve capital distributions in excess of the safe-harbor amounts under paragraph (b)(2) of this section, the Office will evaluate whether the exception would affirmatively promote the safe and sound operation of the tier 2 association. The Office also may authorize a capital distribution by a tier 3 association under paragraph (b)(3) of this section upon a compelling showing that such a capital

distribution would affirmatively promote the safe and sound operation of the tier 3 association. A factor that would be regarded favorably by the Office in deciding upon applications to make capital distributions above the limits set in paragraphs (b)(1), (b)(2) and (b)(3) of this section is whether an association will be making additional equity security issuances that would raise an association's capital level and, that overall with any attendant capital distributions, would have a beneficial effect on the safe and sound operation of the association. Such authorization may be granted separately, or in conjunction with approval of a related submission or application, such as a capital plan or acquisition of control filing. An application for such supervisory approval under paragraphs (b)(2) and (b)(3) of this section shall set forth all information determined sufficient for supervisory purposes and shall substantiate why the requested capital distribution should be permitted under the applicable criteria for its tier.

(2) The requirements of this section shall supersede the provisions of agreements or conditions to approved applications controlling associations' capital distributions that were less stringent than the restrictions imposed under this rule.

(3) An association subject to restrictions under an agreement or application condition that are more stringent than the restrictions imposed by this rule may submit a written notice to its District Director seeking to be subject to this rule. The Office within 30 days of receipt of the notice will evaluate the notice and make a determination of whether the facts initially warranting imposition of the more stringent agreement or condition warrant the continuation of those restrictions or if the provisions of this section should apply to the association.

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

3. The authority citation for part 563b continues to read as follows:

Authority: Secs. 2, 5, 48 Stat. 126, 132, as amended (12 U.S.C. 1462, 1464); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 10, as added by sec. 301, 103 Stat. 318 (12 U.S.C. 1467a); secs. 3, 12–14, 23, 48 Stat. 882, 892, 894–895, 901, as amended (15 U.S.C. 78c, 1–n, w).

4. Section 563b.3 is amended by revising paragraph (g)(2) to read as follows, by removing paragraph (g)(3), and by redesignating paragraph (g)(4) as new paragraph (g)(3):

§ 563b.3 General principles for conversions.

(g) *Restrictions on repurchase of stock and payment of dividends.* * * *

(2) No converted association shall declare or pay a dividend on, or repurchase any of, its capital stock if the effect thereof would cause the regulatory capital of the converted association to be reduced below the amount required for its liquidation account. Any dividend declared or paid on, or repurchase of, a converted association's capital stock also shall be in compliance with § 563.134 of this subchapter.

By the Office of Thrift Supervision,
Timothy Ryan,
Director.

[FR Doc. 90-15088 Filed 6-27-90; 10:56 am]
BILLING CODE 6720-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN 3245-AB84

Business Loan Policy; Preferred Lenders Program (PLP) Loans

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: On January 22, 1990, the SBA published a final rule (55 FR 2049) which prohibits a Preferred Lender from selling all or any part of the unguaranteed portion of a Preferred Lenders Program (PLP) loan. This final rule clarifies that such prohibition applies only to the 20 percent of the PLP loan which is not guaranteed.

EFFECTIVE DATE: This rule is effective July 2, 1990. Comments may be submitted on or before August 31, 1990.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, telephone (202) 653-6574.

SUPPLEMENTARY INFORMATION: On January 22, 1990, the SBA published a final rule (55 FR 2049) which prohibits a Preferred Lender from selling or transferring all or any part of the unguaranteed portion of a PLP loan. Under the PLP, SBA has the authority to guarantee 80 percent of a PLP loan and the intent of the final rule, as published,

was to ensure that the remaining 20 percent was not sold or transferred.

SBA has the authority under its regulations to guarantee less than 80 percent of a PLP loan, if the PLP Lender so requests (see 13 CFR 120.403-2). In such a case, the PLP Lender could sell or transfer part of the unguaranteed portion so long as it retains the remaining 20 percent. Thus, if a PLP Lender makes a PLP loan with a 75 percent SBA guaranty, it could sell 5 percent of the loan but it must retain the remaining 20 percent. It was never the intent of the SBA to preclude the PLP Lender from selling all or part of the PLP loan where the SBA guaranty is less than 80 percent of the loan. This final regulation is a clarification and reflects what has been the SBA interpretation since the promulgation of the rule on January 22, 1990.

For purposes of the Regulatory Flexibility Act (5 U.S.C. 605(b)), SBA certifies that this rule will not have a significant impact on a substantial number of small entities. SBA certifies that this final rule does not constitute a major rule for the purposes of Executive Order 12291 since the change is not likely to result in an annual effect on the economy of \$100 million or more.

The rule does not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

This final rule does not have federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

There is an administrative need to promulgate this rule in final form without prior public notice and comment because it clarifies what has been SBA policy.

List of Subjects in 13 CFR Part 120

Loan programs/business.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 643(b)(6)), SBA amends part 120, chapter I, title 13, Code of Federal Regulations, as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Section 120.403-7(d) is revised to read as follows:

§ 120.403-7 Limitations on preferred lenders; SBA access.

(d) Sale of all or part of unguaranteed portion. A Preferred Lender is prohibited

from selling or transferring all or any part of the unguaranteed portion of a PLP loan when such unguaranteed portion is 20 percent of the loan. If the unguaranteed portion of a PLP loan exceeds 20 percent of the loan, the PLP Lender may sell or transfer all or any part of the unguaranteed portion in excess of that amount.

[Catalog of Federal Domestic Assistance Programs No. 59.012, Small Business Loans]

Dated: May 29, 1990.

Susan Engeleiter,
Administrator.

[FR Doc. 90-15243 Filed 6-29-90; 8:45 am]
BILLING CODE 8025-01-M

13 CFR Part 121

RIN 3245-AA84

Small Business Size Standards Regulation; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; corrections.

SUMMARY: The Small Business Administration (SBA) is correcting typographical errors and inadvertent omissions in the Small Business Size Standards regulation which is codified in part 121 of title 13, Code of Federal Regulations.

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia R. Forbes, Chief Counsel for Legislation, (202) 653-6573.

SUPPLEMENTARY INFORMATION: On December 21, 1989, SBA published in the *Federal Register* a final rule to amend the Small Business Size Standards regulation (54 FR 52634). This regulation is codified as part 121 of title 13 of the Code of Federal Regulations. Upon review of the final rule, several errors were discovered which the Agency is correcting at this time.

A typographical error was discovered in the caption of § 121.401(d). The word "amono" should be "among".

The need for a correction was discovered in § 121.401(e)(3) Example. The fourth sentence in the example which reads "Therefore, Firm C would be considered small because Firm A's employees plus its employees (200+50) would fall short of the 500 employee size standard as would the total of Firm B's employees plus its employees (400+50)." Should read "Therefore, Firm C would be considered other than small because Firm A's employees plus its employees plus Firm B's employees (200+50+400) would exceed the 500 employee size standard."

The need for changes for clarification were discovered in § 121.401(f) Example

2. The number "25" is being removed and "50 of the 70 owned by A" is being inserted in lieu thereof. Also, "gives" is being removed and "sells" is being inserted in lieu thereof. These changes are necessary to clarify the example.

In § 121.402(b)(2) the phrase "proceeds from payments of notes receivable and accounts receivable," is being removed from the second sentence. This phrase was inadvertently included.

A typographical error was discovered in § 121.402(c). The word "fiscal" the second time it appears is being removed from the first sentence and the word "fiscal" is being inserted in lieu thereof.

Two changes for clarification are being made in § 121.401(e)(1). In the first sentence of § 121.401(e)(1) the phrase "or before small business self-certification" is added after the phrase "during the applicable averaging period". In the second sentence, the phrase "during the entire period" is being removed and the phrase "for the entire applicable averaging period" is being inserted in lieu thereof.

Section 121.407(d) is amended by adding "or before small business certification" after "during the applicable averaging period" in the first sentence. In the second sentence the phrase "during the entire period" is removed and the phrase "for the entire applicable averaging period" is inserted in lieu thereof.

A number of typographical errors were discovered in the Size Standards by SIC Industry table found in § 121.601. Therefore, corrections are made to the following Standard Industrial Classifications (SICs) and footnotes: SIC 2321, SIC 2421, SIC 2869, SIC 3011, SIC 3263, SIC 3823, SIC 4212, SIC 4953, SIC 6331, SIC 8361, SIC 8711, footnotes 10, 16, 18 and 20.

The word "business" is being added to § 121.801 between the words "small" and "size".

A typographical error was discovered in § 121.906. The word "General" should be the word "General".

The phrase "except as provided in § 121.1104(b)(2)(i)" is being added before the "and" at the end of § 121.1103(b) to clarify that § 121.1104(b)(2)(i) may apply in lieu of § 121.1103(b).

The following sentence is being added to the end of § 121.1106(c) as a new paragraph (2) to conform the size rules relating to the 8(a) program to those in effect for SBA's procurement programs: "Where the Government has specified an item (or items) for the kit which is (are) not produced by small business concerns, then such item(s) shall be excluded from the determination of total

value for the purposes of this subsection."

The need for a clarifying phrase was discovered in § 121.1601(a)(5). The phrase "for example" is being added after "including" in the first sentence to clarify that the list is not all-inclusive.

The following phrase is being removed from § 121.1601(b)(2)(i)(B): "SBA Regional Administrator of the region serving the geographical area in which the principal office of the applicant concern, excluding parent companies and affiliates, is located, the". The phrase is being removed to make the section consistent with new requirements in the 8(a) eligibility process.

The need for a phrase change for clarification was discovered in § 121.1601(b)(2)(ii)(A). The phrase "for the particular procurement" is being removed and the phrase "for the particular sole source 8(a) award or the apparent successful offeror for the particular competitive 8(a) award" is being inserted in lieu thereof. This change is necessary to specify which award is being referred to.

A typographical error was discovered in § 121.1602(c). The word "fo" is being removed from the first sentence and the word "for" is being inserted in lieu thereof.

An inadvertent omission was discovered in § 121.1604(c). The phrase "or standing" was inadvertently omitted after "lack of specificity" in the first sentence.

An addition for clarification is being made in § 121.1605(a). The words "protested concern" are being added after "contracting officer" in the first sentence. This addition is necessary to make clear that the protested concern receives a copy of the protest thereby informing such concern whether the protest was ever dismissed for lack of specificity.

The phrase "or the procuring agency contracting officer" is being deleted from § 121.1703(b). This change is necessary to make the section consistent with the 8(a) regulations and with § 121.1102(c).

Due to the fact that these corrections make no substantive change to the original final rule and merely correct errors, SBA is not required to determine if these changes constitute a major rule for purposes of Executive Order 12291, to determine if they have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) or to do a Federalism assessment pursuant to Executive Order 12612. Finally, these changes will not impose an annual recordkeeping or

reporting requirement on 10 or more persons under the Paperwork Reduction Act (44 U.S.C. Ch. 35).

List of Subjects in 13 CFR part 121

Small businesses, Standard Industrial Classification Codes.

Accordingly, pursuant to the authority found at 15 U.S.C. 634(b)(6), SBA makes the following corrections to Subpart A of Part 121 of Title 13, Code of Federal Regulations, Small Business Size Standards:

PART 121—[AMENDED]

(1) The authority citation for part 121 continues to read as follows:

Authority: Sec. 3(a) and 5(b)(6) of the Small Business Act, as amended (15 U.S.C. 632(a), 634(b)(6)) and Pub. L. 100-656, 102 Stat. 3853 (1988).

(2) Subpart A of Part 121 of Title 13 Code of Federal Regulations is amended as follows:

§ 121.401 [Amended]

a. Section 121.401(d) is amended by removing "amono" and adding "among" in lieu thereof.

b. Section 121.401(e)(3) Example is amended by removing the fourth sentence "Therefore, Firm C would be considered small because Firm A's employees plus its employees (200 + 50) would fall short of the 500 employee size standard as would the total of Firm B's employees plus its employees (400 + 50)." and adding "Therefore, Firm C would be considered other than small because Firm A's employees plus its employees plus Firm B's employees (200 + 50 + 400) would exceed the 500 employee size standard." in lieu thereof.

c. Section 121.401(f) Example 2 is amended by removing "25" and adding "50 of the 70 owned by A" in lieu thereof, and also by removing "gives" and adding "sells" in lieu thereof.

§ 121.402 [Amended]

d. Section 121.402(b)(2) is amended by removing "proceeds from payments of notes receivable and accounts receivable," in the second sentence.

e. Section 121.402(c) is amended by removing "fiscal" the second time it appears from the first sentence and adding "fiscal" in lieu thereof.

f. Section 121.402(e)(1) is amended by adding the phrase "or before small business self-certification" in the first sentence after the phrase "during the applicable averaging period" and, in the second sentence by removing "during the entire period" and adding "for the entire applicable averaging period" in lieu thereof.

§ 121.407 [Amended]

g. Section 121.407(d) is amended by adding in the first sentence "or before small business certification" after "during the applicable averaging period" and, in the second sentence, by removing the phrase "during the entire period" and by adding in lieu thereof "for the entire applicable averaging period".

§ 121.601 [Amended]

h. The Size Standards by SIC Industry table is amended as follows:

(1) Following SIC 2329, SIC 2321 is removed and "2331" is added in lieu thereof.

(2) SIC 2421 is amended by removing "Planning" and adding "Planning" in lieu thereof.

(3) SIC 2869 is amended by removing "1000" and adding "1,000" in lieu thereof.

(4) SIC 3011 is amended by redesignating "6" as a footnote.

(5) SIC 3263 is amended by removing "Earthware" and adding "Earthenware" in lieu thereof.

(6) SIC 3823 is amended by changing the comma after the word "Variables" to a semicolon.

(7) SIC 4212 is amended by removing footnote "8" and adding "7" as a footnote following "\$12.5".

(8) SIC 4953 is amended by adding footnote "11" after "Systems".

(9) SIC 6331 is amended by removing "\$1500" and adding "1,500" in lieu thereof.

(10) SIC 8361 is amended by removing "Residential" and adding "Residential" in lieu thereof.

(11) SIC 8711 is amended by removing "Navel" and adding "Naval" in lieu thereof.

(12) Footnote 10 is amended by removing "The Commissions received" and adding "The commissions received".

(13) Footnote 16 is amended by removing "J" and adding "I" in lieu thereof.

(14) Footnote 18 is amended by removing "specific products" and adding "specific product" in lieu thereof.

(15) Footnote 20 is amended by removing "special trade construction related activities" and adding "special trade construction related activities" in lieu thereof.

§ 121.801 [Amended]

i. Section 121.801 is amended by adding the word "business" between the words "small" and "size".

§ 121.906 [Amended]

j. Section 121.906 is amended by removing "General" and adding "General" in lieu thereof.

§ 121.1103 [Amended]

k. Section 121.1103(b) is amended by adding "except as provided in 121.1104(b)(2)(i)" before the "and" at the end of § 121.1103(b).

§ 121.1106 [Amended]

l. Section 121.1106(c) is amended by adding "(1)" before the first sentence and the following as new paragraph (a)(2): "(2) Where the Government has specified an item (or items) for the kit which is (are) not produced by small business concerns, then such item(s) shall be excluded from the determination of total value for the purposes of this subsection."

§ 121.1601 [Amended]

m. Section 121.1601(a)(5) is amended by adding ", for example," after "including" in the first sentence.

n. Section 121.1601(b)(2)(i)(B) is amended by removing "SBA Regional Administrator of the region serving the geographical area in which the principal office of the applicant concern, excluding parent companies and affiliates, is located, the".

o. Section 121.1601(b)(2)(ii)(A) is amended by removing "for the particular procurement" and adding "for the particular sole source 8(a) award or the apparent successful offeror for the particular competitive 8(a) award" in lieu thereof.

§ 121.1602 [Amended]

p. Section 121.1602(c) is amended by removing "fo" from the first sentence and adding "for" in lieu thereof.

§ 121.1604 [Amended]

q. Section 121.1604(c) is amended by adding "or standing" after "lack of specificity" in the first sentence.

§ 121.1605 [Amended]

r. Section 121.1605(a) is amended by adding ", protested concern" after "contracting officer" in the first sentence.

§ 121.1703 [Amended]

s. Section 121.1703(b) is amended by removing "or the procuring agency contracting officer".

Dated: June 21, 1990.

Susan S. Engeleiter,
Administrator.

[FR Doc. 90-15244 Filed 6-29-90; 8:45 am]

BILLING CODE 9025-01-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 89-ANE-15; Amdt. 39-6428]

Airworthiness Directives; Pratt & Whitney (PW) JT9D-7R4D and JT9D-7R4E Turbofan Engines Installed on Boeing B767 Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action published in the Federal Register and makes effective as to all persons an amendment that supersedes Telegraphic Airworthiness Directive (TAD) No. T89-11-51 which was previously made effective as to all known U.S. owners and operators of certain PW JT9D-7R4D and JT9D-7R4E turbofan engines by individual telegram. This amendment requires adjustments and modifications to the engine vane and bleed control (EVBC) and the fuel control unit (FCU), initial and repetitive inspections of the 3.0 bleed valve linkages, and restoration of the leading edge of the fan blades. This amendment is prompted by a reduction in engine surge margin caused by engine deterioration and mistrim of the 3.0 bleed system which could result in engine overtemperature and loss of power, or engine inflight shutdown.

DATES: Effective: July 2, 1990.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 2, 1990.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable documents may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457, or may be examined in the Regional Rules Docket, Room 311, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Karen M. Grant, Engine Certification Branch, ANE-142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

SUPPLEMENTARY INFORMATION: On May 23, 1989, the FAA issued TAD T89-11-51 applicable to all known U.S. owners and operators of certain JT9D-7R4D and JT9D-7R4E turbofan engines, which

requires adjustments and modifications to the EVBC and FCU, initial and repetitive inspections of the 3.0 bleed valve linkages, and restoration of the leading edge fan blades. That action was prompted by a reduction in engine surge margin caused by engine deterioration and mistrim on the 3.0 bleed system. This condition, if not corrected could result in engine overtemperature and loss of power, or engine inflight shutdown. The FAA has determined that a dual engine overtemperature and loss of power event resulted from a reduction in surge margin caused by engine deterioration and mistrim of the 3.0 bleed system. The information contained in this AD differs from TAD T89-11-51, by the addition of paragraph (a)(3) of this AD, for clarity, and by amending paragraph (d)(5) of this AD, for clarity.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual TAD issued May 23, 1989, to all known U.S. owners and operators of certain JT9D-7R4D and JT9D-7R4E turbofan engines. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to § 39.13 of part 39 of the Federal Aviation Regulations (FAR) to make it effective as to all persons.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket

(otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) amends 14 CFR part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive (AD):

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT9D-7R4D and -7R4E turbofan engines installed on Boeing B767 aircraft.

Compliance is required as indicated, unless already accomplished.

To prevent engine overtemperature and loss of power or engine shutdown inflight, accomplish the following:

(a) Adjust the engine vane and bleed control (EVBC), Hamilton Standard, Part Number (P/N) 776555-3, to the 1.27 engine pressure ratio (EPR) bleed trim, and Hamilton Standard, P/N 776555-5, to 1.27 EPR in accordance with the instructions of Appendix 2 of this AD (unless already adjusted to 1.32 EPR bleed trim in accordance with the instructions of Appendix 1 of this AD) as follows:

(1) Within 5 calendar days or 50 cycles in service after the effective date of this AD, whichever occurs later, for those engines with 4,000 or more cycles in service on the effective date of this AD, or since last high pressure compressor (HPC) overhaul.

(2) Within 15 calendar days or 150 cycles in service after the effective date of this AD, whichever occurs later, but not to exceed 4,050 cycles in service or since HPC overhaul, for those engines with less than 4,000 cycles in service on the effective date of this AD, or since last HPC overhaul.

(3) The 3.0 bleed trim screw may bottom out before the two clockwise turns are completed in accordance with instructions of

Appendix 2 of this AD. If the turn screw bottoms out, this is an acceptable condition.

(b) An engine which has had no 3.0 bleed or vane schedule adjustments since it was last trimmed in the test cell (P/N 776555-3 to 1.27 EPR or P/N 776555-5 to 1.32 EPR) is exempt from the requirements of paragraphs (a)(1) and (a)(2).

Note: For the purpose of this AD, the definition of HPC overhaul is anytime the HPC is disassembled, inspected, and repaired in accordance with PW Engine Manual P/N 785059, Section 72-35-00.

(c) Adjust and decel schedule trim of fuel control unit (FCU), P/N 797371, and reidentify the FCU, in accordance with the instructions of Appendix 3 of this AD, within the applicable schedule in paragraph (a)(1) or (a)(2) above. If cycling bleeds occur as a result of the decel schedule uptrim, downtrim the decel schedule in accordance with the instructions of Appendix 4 of this AD.

(d) Within the next 30 calendar days after the effective date of this AD accomplish the following:

(1) Adjust the EVBC, P/N 776555-3, to the 1.27 EPR bleed trim and, P/N 776555-5, to the 1.32 EPR bleed trim in accordance with the instructions of Appendix 1 of this AD.

(2) Modify the 3.0 bleed valve cylinder, P/N 806885 or 774300, in accordance with the instructions of Appendix 5 or Appendix 6 of this AD.

(3) Inspect the 3.0 bleed valve linkage for wear in accordance with the instructions of Appendix 7 of this AD and accomplish the following:

(i) Remove engines with worn 3.0 valve linkage prior to accumulating 5 cycles in service since inspection and replace with a serviceable engine.

(ii) Reinspect linkages found serviceable in accordance with the requirement of paragraph (c)(3) above, at intervals not to exceed 3,000 hours since last inspection.

(e) Incorporate the following modifications to upgrade the EVBC to Hamilton Standard, P/N 776555-5, prior to July 31, 1990, by accomplishing the following:

(1) Incorporate the fluid drain between sensor servo piston chevron seals, in accordance with the instructions of Appendix 8 of this AD.

(2) Incorporate the pilot valve spring, P/N 801040-1, in accordance with the instructions of Appendix 9 of this AD.

(3) Incorporate the decel bleed reset piston spring, P/N 801073-1, in accordance with the instructions of Appendix 10 of this AD.

(4) Incorporate the 3.0 bleed cam, P/N 765357-11, and recalibrate the control, in accordance with the instructions of Appendix 11 of this AD.

(5) Incorporate the actuator valve, P/N 800997-1, in accordance with the instructions

of Appendix 12 of this AD; or remove actuator valve, P/N 728149-3, and replace with a new or serviceable actuator valve, P/N 728149-3. Replacement actuator valves, P/N 728149-3, must be removed from service at, or prior to accumulating 10,000 hours since new.

(6) Incorporate the adjust EVBC to 1.32 EPR bleed trim, in accordance with paragraph (c)(1) above.

(f) Modify FCU, Hamilton Standard, P/N 773333-3, prior to July 31, 1990, by accomplishing the following:

(1) Incorporate the L-22 idle speed cam, P/N 774537-9, in accordance with the instructions of Appendix 13 of this AD.

(2) Incorporate the decel cam, P/N 774538-13, in accordance with the instructions of Appendix 14 of this AD.

(g) Incorporate the revised test procedure for the fuel control decel bleed override, in accordance with the instructions of Appendix 15 of this AD, prior to July 31, 1990.

(h) Install 3.0 bleed dampers at the next shop visit, in accordance with PW Service Bulletin (SB) JT9D-7R4-72-336, Revision 5, dated June 23, 1988. Installation of 3.0 bleed dampers terminates the reinspection requirements of paragraph (c)(3)(ii) above.

Note: For the purpose of the AD, the definition of shop visit is any time the engine or module is in a maintenance shop capable of complying with the SB instructions regardless of the planned maintenance action or the reason for engine removal.

(i) Restore the leading edge of the first stage compressor blades in accordance with PW SB JT9D-7R4-72-117, Revision 4, dated June 30, 1989, at the next fan module overhaul after the effective date of this AD and thereafter at every fan module overhaul.

Note: For the purpose of this AD, the definition of fan module overhaul is anytime the fan module is disassembled, inspected, and repaired, in accordance with PW Engine Manual P/N 785058.

(j) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(k) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance times specified in this AD may be approved by the Manager, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

The installation and restoration procedures shall be done in accordance with the following PW documents:

Document No.	Page No.	Issue/revision	Date
JT9D-7R4-72-117	1,2,4,5,6,7,8,9,10,11	4	June 30, 1989
JT9D-7R4-72-117	3	3	Dec. 21, 1987
JT9D-7R4-72-336	1,3,4,8,9,10	5	June 23, 1988
	11,12,13,14,15,16,17,18,19,20	4	Aug. 28, 1987
	2	3	June 8, 1989
JT9D-7R4-72-336	5,6,7	Original	Mar. 2, 1987

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, Publications Department, P.O. Box 611, Middletown, Connecticut 06457. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts 01803, or at the Office of the Federal Register, 1100 L Street, NW., Room 8301, Washington, DC 20591.

This amendment supersedes Telegraphic Airworthiness Directive No. T89-11-51, dated May 23, 1989.

This amendment becomes effective July 2, 1990.

Issued in Burlington, Massachusetts, on June 12, 1990.

Arthur J. Pidgeon,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

Appendix 1

Note: This appendix consists of material from: Boeing 767 Maintenance Manual, JT9D engines, chapter/section 71-01-00, Test No. 10, dated February 10, 1989.

Appendix 2

Note: This appendix consists of material from: Pratt & Whitney (PW) Special Instruction (SI) 55F-89, dated May 19, 1989.

Appendix 3

Note: This appendix consists of material from: PW SI 42F-88, Revision A, dated May 19, 1989.

Appendix 4

Note: This appendix consists of material from: PW SI 53F-89, dated May 23, 1989.

Appendix 5

Note: This appendix consists of material from: PW SI 54F-89, dated May 19, 1989.

Appendix 6

Note: This appendix consists of material from: PW SI 54F-89, dated May 19, 1989.

Appendix 7

Note: This appendix consists of material from: PW Maintenance Manual, P/N 785050, chapter/section 72-00-00, Inspection/Check-06, dated November 1, 1986.

Appendix 8

Note: This appendix consists of material from: Hamilton Standard Bulletin (HSB) GTA9 No. 9, Revision 1, dated October 15, 1984.

Appendix 9

Note: This appendix consists of material from: HSB GTA9 No. 16, dated March 20, 1988.

Appendix 10

Note: This appendix consists of material from: HSB GTA9 No. 17, dated March 31, 1988.

Appendix 11

Note: This appendix consists of material from: HSB GTA9 No. 18, Revision 1, dated January 15, 1989.

Appendix 12

Note: This appendix consists of material from: HSB GTA9 No. 19, dated August 12, 1988.

Appendix 13

Note: This appendix consists of material from: HSB JFC68-7 No. 10, Revision 1, dated October 31, 1989.

Appendix 14

Note: This appendix consists of material from: HSB JFC68-7 No. 14, Revision 1, dated October 31, 1989.

Appendix 15

Note: This appendix consists of material from: HSB JFC68-7 No. 12, dated March 31, 1988.

Appendix 1

Test No. 10—0 Bleed Valve Trim

(1) General

(a) This test provides information necessary for trimming the modulating 3.0 Bleed valve.

(b) Before trim operations can be performed on engine with untrimmed controls, normal operation must be ensured. For engine operating limits, operating procedure, safety precautions and other related information, refer to 71-00-00/201.

(c) If components have been changed which required removal and reinstallation of 1st stage turbine rotor air duct or high pressure turbine rotor cooling air system (Refer to Power Plant Test Reference Table), turbine cooling air pressure ratio (PS4-PS51)/PS4 should be monitored and checked per 71-00-00 Test No. 12, unless satisfactory turbine cooling air has been established by previous testing.

(2) Referenced Procedures

(a) 24-22-00/201, Electrical Power—ontrol

(b) 29-11-00/201, Main Hydraulic Systems

(c) 36-00-00/201, Pneumatic—eneral

(d) 49-11-00/201, Auxiliary Power Unit (APU)

(e) 71-00-00/201, Power Plant (Operating

Procedures)

(f) 71-00-00/501, Power Plant (Adjustment/

Test)

(g) 71-01-00/201, Power Plant (Equipment

Handling)

(h) 75-31-01/501, Engine Vane Bleed Control

(EVBC)

(i) 75-32-03/501, 3.0 Bleed Valve Actuator

(j) 75-32-05/501, Bleed System Push-Pull

Feedback Cable

(k) 75-32-06/501, 3.0 Bleed Valve Actuator

Position Switch

(l) 78-31-00/201, Thrust Reverser System

(3) Equipment

(a) Engine Remote Trim Kit—TS-111,

Compair Inc. (optional to RMS trim kit)

(b) Engine Remote Trim Kit—RMS

(optional to Compair trim kit)

(4) Prepare to trim 3.0 Bleed valve.

(a) Orient the airplane so that wind conditions allow for engine trim (Fig. 501).

Note: If possible, position aircraft with wind heading directly into inlet. Avoid trimming EVBC when engine is downwind of fuselage.

Warning: Failure to follow 78-31-00/201 when opening thrust reversers could result in injury to personnel and/or damage to equipment.

(b) Open thrust reversers (Ref 78-31-00).

(c) Determine 3.0 Bleed Trim EPR Target as follows:

(1) Record EEC programming plug (EPR modifier) class number (Ref engine nameplate of main gearbox).

(2) Record EVBC part number.

(3) Find 3.0 Bleed Trim EPR Target in table below:

Note: EVBC P/N 776555-3 with L-10 change incorporated is equivalent to EVBC P/N 776555-6.

3.0 BLEED TRIM EPR TARGETS

EEC Programming plug class No.	EPR target (1)	EPR target (2)
1 or 21.....	1.186	1.232
2 or 22.....	1.192	1.228
3 or 23.....	1.188	1.224
4 or 24.....	1.184	1.220
5 or 25.....	1.180	1.216
6 or 26.....	1.176	1.212
7 or 27.....	1.172	1.208
8 or 28.....	1.168	1.204
9 or 29.....	1.164	1.200
10 or 30.....	1.160	1.196
11 or 31.....	1.156	1.192
12 or 32.....	1.152	1.188
13 or 33.....	1.148	1.184
14 or 34.....	1.144	1.180
15 or 35.....	1.140	1.176
16 or 36.....	1.136	1.172

(1) Engines With EVBC HSD P/N 776555-2, -3, -6 (PWA P/N 787429, 795283, 806894)

(2) Engines With EVBC HSD P/N 776555-5 (PWA P/N 806833)

(d) Install pressure monitoring equipment, if required (Ref 71-00-00, Test 12).

Caution: Failure to calibrate 3.0 bleed transducer per 71-01-00/201 prior to performing this test can result in abnormal and/or unstable engine operation.

(e) Install trim equipment (Ref 71-01-00).

Note: Properly calibrate 3.0 Bleed transducer prior to performing this test.

Warning: Failure to follow 78-31-00/201 when closing thrust reversers could result in injury to personnel and/or damage to equipment.

(f) Close thrust reversers (Ref 78-31-00).

Caution: Keep center and right hydraulic systems pressurized during engine test runs. Loss of airplane control could result if hydraulic systems are not pressurized.

(g) Pressurize center and right hydraulic systems (Ref 29-11-00).

(h) Provide electrical power (Ref 24-22-00).

Caution: Compressor stall [PAR. 1.C.(1)]

Restart following emergency shut down [PAR.1.C.(2)]

Do not use ignition [PAR.1.C.(3)]

Tailwinds [PAR.1.C.(4)]

(i) Prepare and start engine as described for normal engine operation (Ref 71-00-00).

Caution: The other engine or APU must be operated during test runs for pneumatic power source in event of compressor stall.

(j) Prepare and start engine not being tested (Ref 71-00-00) or APU (Ref 49-11-00).

(k) Remove ground pneumatic power, if supplied (Ref. 36-00-00).

(l) Allow N2 rpm to stabilize at idle for five minutes.

(m) check that operating indications are within operating limits. Record N1, N2, oil pressure, and oil temperature.

(n) Ensure that following systems are off for engine being operated for 3.0 Bleed trim.

Note: These systems must be off during trimming because trim targets are based on no-load and no air bleed conditions.

(1) Engine air bleed.

(2) Fuel heater.

(3) Anti-icing (unless required).

Note: Trimming should not be performed when weather conditions require nacelle anti-icing system to be in operation because trim tables and test curves are based on no airbleed condition.

If trimming must be performed when icing conditions prevail, nacelle anti-icing system must be kept on during all engine operation except for last 30 seconds of each trim or test stabilization period.

(4) Generator.

(5) Trim 3.0 Bleed valve.

Caution: The EEC shall be turned on or off only at idle power lever position unless otherwise specified.

(a) with thrust lever at idle position, turn EEC off.

Caution: Do not adjust 3.0 Bleed transducer calibration controls to bring 3.0 Bleed actuator position indication within tolerance. Adjusting calibration controls will cause mis-trim.

(b) Record 3.0 Bleed valve actuator position indication. If position indication is not 0.00 +/- 0.20 inches, shutdown engine and check 3.0 Bleed valve position transducer calibration. If transducer is properly calibrated, check 3.0 Bleed system for proper operation (Ref 75-31-01, 75-32-03, -05).

(c) Advance thrust lever slowly and smoothly to obtain 1.37 EPR. Record 3.0 Bleed valve position indication when upper left (No. 4) 3.5 Bleed valve closes and when engine reaches 1.37 EPR.

Note: Upper left 3.5 Bleed valve closure can be identified by a 4-12°C decrease in EGT and a sudden brief reversal in direction of 3.0 Bleed actuator travel of approximately 0.06 inches. Thrust lever movement must be slow and deliberate to detect 3.5 Bleed valve closure. 3.5 Bleed valve closure must be

checked in direction of increasing thrust.

3.5 Bleed valve closure point is used to check 3.0 Bleed valve actuator position switch adjustment.

1.37 EPR setting will position 3.0 Bleed valve fully closed.

Caution: Do not adjust 3.0 Bleed transducer calibration controls to bring 3.0 Bleed actuator position indication within tolerance. Adjusting calibration controls will cause mis-trim.

(d) If 3.0 Bleed position indication at 1.37 EPR is not 1.89 +/- 0.10 inches, shutdown engine and check 3.0 Bleed position transducer calibration. If transducer is properly calibrated, check 3.0 Bleed system for proper operation (Ref 75-31-01, 75-32-03, -05).

(e) Calculate 3.0 Bleed actuator Position Target as follows:

(1) ON ENGINES WITH EVBC P/N 77655-2, -3, and -6, subtract 0.60 inch from 3.0 Bleed position indication at 1.37 EPR. This is Position Target.

Example: 3.0 Bleed position indication at 1.37 EPR = 1.89 Position Target = 1.89 - 0.60 = 1.29 inches.

(2) On engines with EVBC P/N 77655-5, subtract 1.00 inch from 3.0 Bleed position indication at 1.37 EPR. This is Position Target.

Example: 3.0 Bleed position indication at 1.37 EPR = 1.89 Position Target = 1.89 - 1.00 = 0.89 inches.

(f) Lock upper left (No. 4) 3.5 Bleed valve closed as follows:

Note: These steps will remove power from No. 4 3.5 Bleed override control valve, which will keep No. 4 3.5 Bleed valve closed for all power settings.

No. 4 3.5 Bleed valve must remain open until engine is above idle speed to prevent 5th stage compressor blade flutter.

(1) For left engine, open the following overhead panel P11 circuit breaker and attach DO-NOT-CLOSE identifier: (a) 11L3, L ENG ANTI STALL

(2) For right engine, open the following overhead panel P11 circuit breaker and attach DO-NOT-CLOSE identifier: (a) 11L30, RIGHT ENGINE ANTI STALL

(g) Slowly retard thrust lever until EPR reaches EPR Target level.

Note: If EPR drops below EPR Target level, increase thrust to 0.05 EPR above EPR Target level and then slowly decelerate to EPR Target level.

(h) If 3.0 Bleed position indication is within +/- 0.03 inches of Position Target, no adjustment is required.

(i) If 3.0 Bleed indication is not within +/- 0.03 inches of Position Target, adjust 3.0 Bleed trim as follows:

(1) Remotely adjust 3.0 Bleed trim screw to bring 3.0 Bleed position indication equal to Position Target while keeping thrust lever angle constant.

Note: When a change in trim screw setting is commanded (using INC/DEC toggle switch), the trim gearbox motor will rotate the gearbox end of the flex-drive. Certain conditions (such as siezed trim screws, flex-drives installed with too-sharp curves, or

insufficiently lubricated flex-drives) will cause the trim-head end of the flex-drive to seize. This condition will cause the flex-drive to wrap-up as the motor turns one end while the other end remains siezed, and can cause the trim screw to overshoot the intended adjustment setting when the motor torque overcomes the siezing condition and the flex-drive unwraps. The trim motor current will increase (as indicated by the current meter) as the flex-drive wraps-up and will decrease when it unwraps.

Moving toggle switch to INC position will rotate trim screw clockwise to decrease 3.0 Bleed valve stroke at a given throttle lever angle. Moving toggle switch to DEC has the opposite effect.

(2) Increase thrust to 1.37 EPR.

(3) Check 3.0 Bleed valve position indication. Recalculate Position Target if indication differs from initial indication at 1.37 EPR.

(4) Retard thrust lever until EPR reaches EPR Target level.

(5) Repeat 3.0 Bleed trim check.

(j) Unlock upper left (No. 4) 3.5 Bleed valve as follows:

(1) For left engine, remove DO-NOT-CLOSE identifier and close the following P11 panel circuit breaker: (a) 11L3, L ENG ANTI STALL

(2) For right engine, remove DO-NOT-CLOSE identifier and close the following P11 panel circuit breaker: (a) 11L30, RIGHT ENGINE ANTI STALL

(k) Retard thrust lever to idle.

(l) Determine the difference between 3.0 Bleed valve actuator position indications at 1.37 EPR and at 3.5 Bleed valve closure. If difference is not 0.140-0.240 inches, shutdown engine and adjust 3.0 Bleed valve actuator position switch (Ref 75-32-06).

Note: If 3.0 Bleed trim required adjustment, use final valve of 3.0 Bleed valve position at 1.37 EPR to calculate this difference.

(m) If any 3.0 Bleed trim adjustments have been made, perform fuel control trim (Test No. 9).

(6) Restore airplane to normal.

(a) Allow engine to idle for five minutes.

(b) Shutdown engine as described for normal operation (Ref 71-00-00).

(c) Shut down APU (Ref 49-11-00) or other engine (Ref 71-00-00) as applicable.

Warning: Failure to follow 78-31-00/201 when opening thrust reversers could result in injury to personnel and/or damage to equipment.

(d) Open thrust reversers (Ref 78-31-00).

(e) Check engine and engine mounted accessories for evidence of fuel, oil, and hydraulic fluid leaks.

(f) Remove pressure monitoring equipment, if installed (Ref 71-00-00, Test No. 12).

(g) Remove trim equipment (Ref 71-01-00).

Warning: Failure to follow 78-31-00/201 when closing thrust reversers could result in injury to personnel and/or damage to equipment.

(h) Close thrust reversers (Ref 78-31-00).

(i) Remove hydraulic power (Ref 29-11-00).

(j) Remove electrical power (Ref 24-22-00).

Appendix 2

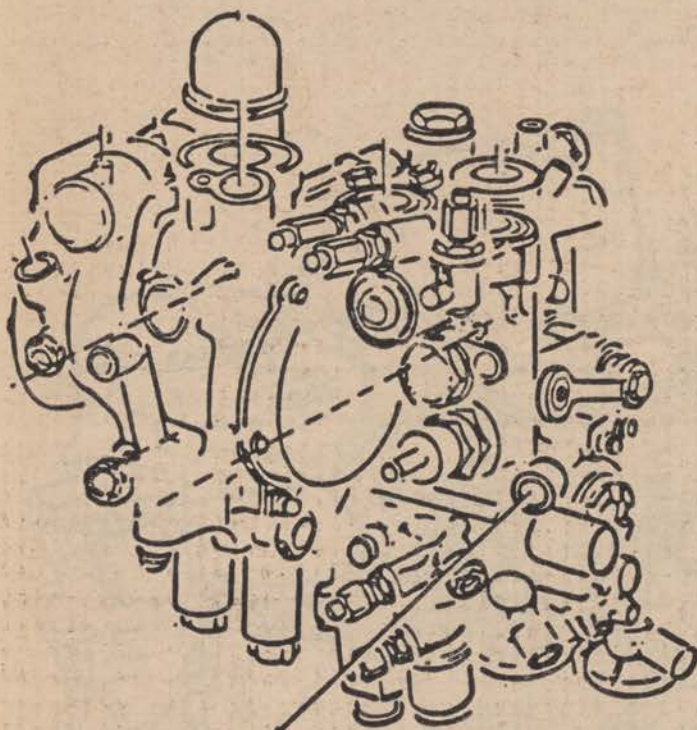
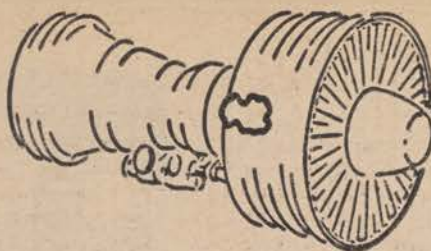
Description: Uptrim the 3.0 bleed schedule on-wing.

References: (1) Turbojet Engine Standard Practices Manual, Part No. 585005.

(2) JT9D-7R4 Engine Manual, Part No. 785059.

Accomplishment Instructions: A. Uptrim the 3.0 bleed schedule from a nominal 1.24 EPR to a nominal 1.27 EPR by turning the 3.0 bleed trim screw on the EVBC 2 turns clockwise. See Figure 1.

BILLING CODE 4910-13-M



TURN THE ADJUSTMENT SCREW 2 TURNS CLOCKWISE
NOTE: THIS TRIMMER IS NOT THE CLICK TYPE

LOCATION OF BLEED TRIM SCREW
FIGURE 1

Appendix 3

Description: Uptrim deceleration schedule by 2 ratio units.

References: (1) Turbojet Engine Standard Practices Manual, Part No. 585095.

(2) Hamilton Standard Service Bulletin JFC 68-7 No. 14.

Accomplishment Instructions:

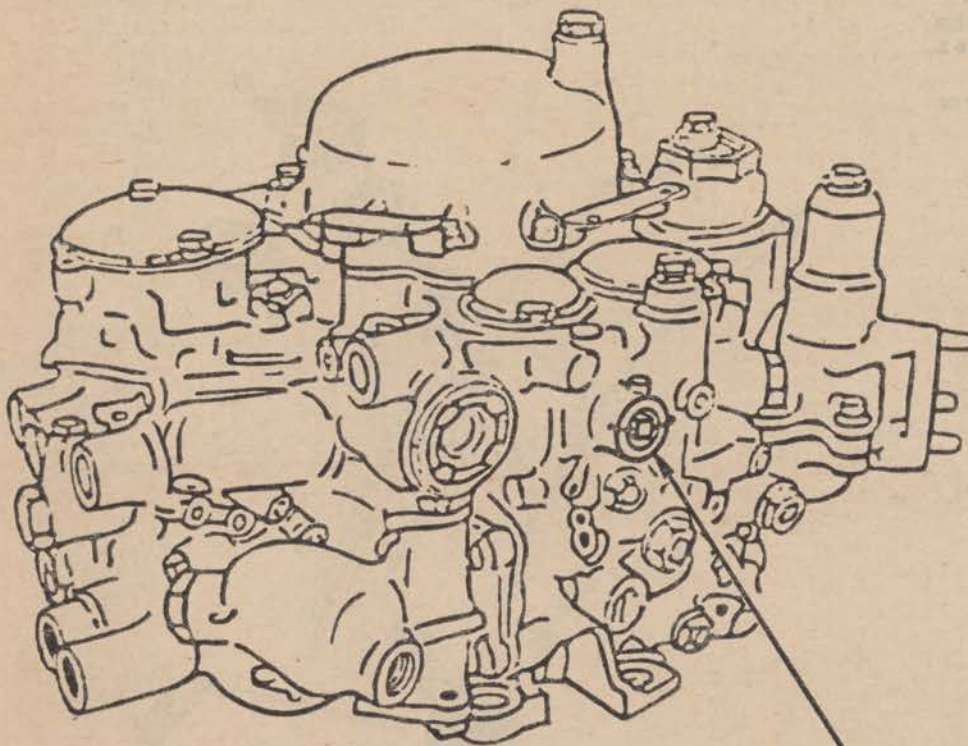
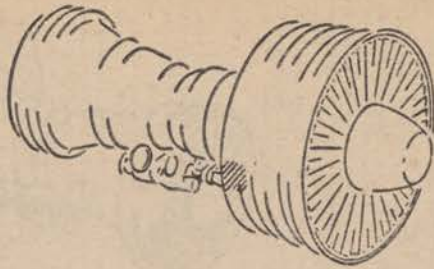
Note: This procedure is only to be used under the cognizance of a Pratt and Whitney or a Hamilton Standard Field Representative.

A. Modify Main Fuel Control, PN 797371 (HSD 773333-3) which do not incorporate Reference (2) to raise the deceleration schedule 2 ratio units as follows; see Figure 1.

(1) Turn the deceleration position adjustment 45° clockwise.

(2) Reidentify PN 797371 (HSD 773333-3) as PN 801494 (HSD 773333-4).

BILLING CODE 4910-13-M



TURN DECELERATION POSITION ADJUSTMENT—
45° CLOCKWISE

LOCATION OF DECELERATION POSITION ADJUSTMENT
FIGURE 1

Appendix 4

References: (1) Turbojet Engine Standard Practices Manual, Part No. 585005.

(2) Special Instruction No. 42F-88 dated May 3, 1988.

(3) JT9D-7R4 Illustrated Parts Catalog, Part No. 784409.

Accomplishment Instructions:

A. Procedure to troubleshoot cycling bleeds:

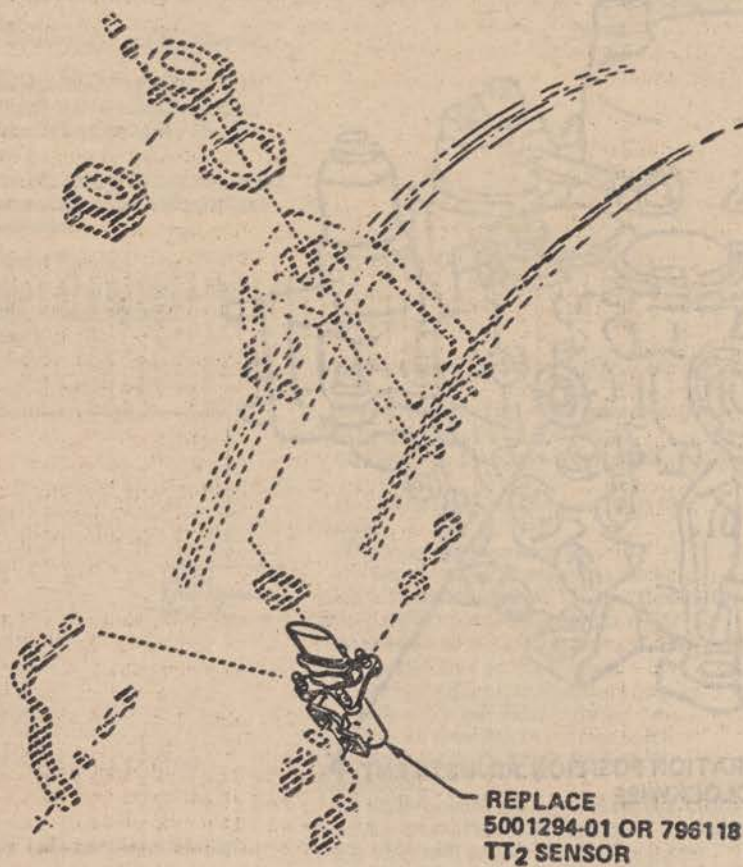
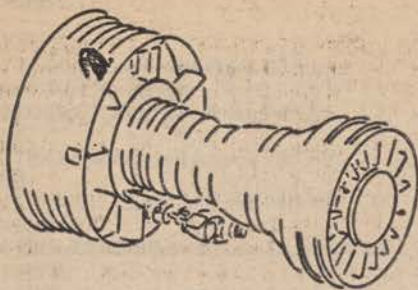
(1) Remove Fuel Control TT2 Sensor, PN 796118 (HSD 786333-1) or 5001294-01 (HSD 774500-1) and replace with PN 796118, (HSD 786333-1). See Figure 1.

(a) If cycling bleeds occur after TT2 sensor is replaced, complete Step (2).

(2) Modify Main Fuel Control, PN 801494 (HSD 773333-4), to downtrim the deceleration schedule 2 ratio units as follows; see Figure 2.

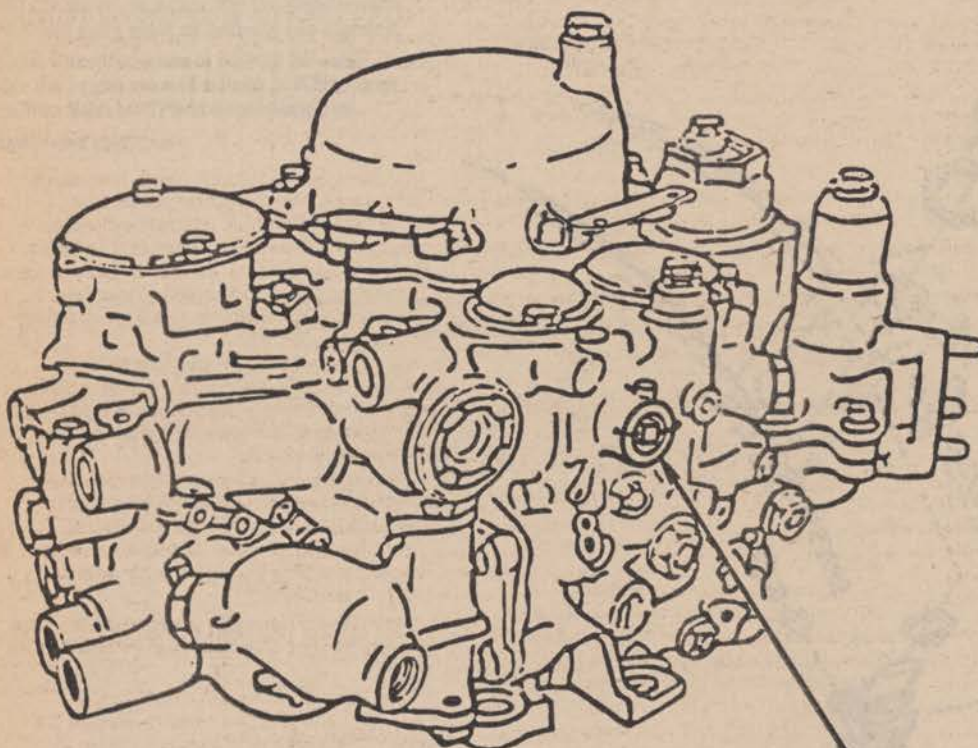
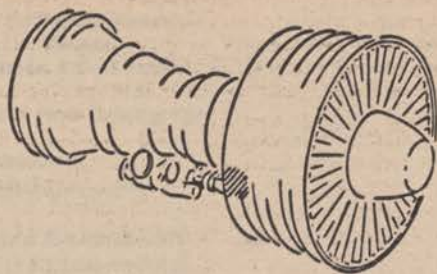
Note: This procedure is only to be used under the cognizance of a Pratt & Whitney or Hamilton Standard Field Representative.

BILLING CODE 4910-13-M



REPLACE
5001294-01 OR 796118
TT₂ SENSOR

LOCATION OF FUEL CONTROL TT2 SENSOR
FIGURE 1



TURN DECELERATION POSITION ADJUSTMENT—
45° COUNTERCLOCKWISE

LOCATION OF DECELERATION POSITION ADJUSTMENT
FIGURE 2

Appendix 5

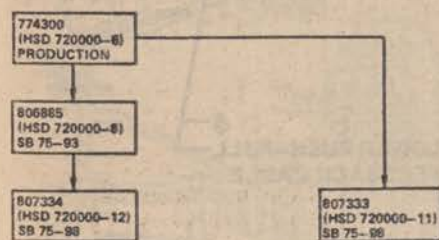
References

- (1) Turbojet Engine Standard Practices Manual, Part No. 585005.
- (2) JT9D-7R4 Engine Manual, Part No. 785058.
- (3) JT9D-7R4 Engine Manual, Part No. 785059.
- (4) JT9D-7R4 Engine Manual, Part No. 789328.
- (5) JT9D-7R4 Illustrated Parts Catalog, Part No. 784409.
- (6) JT9D-7R4 Illustrated Parts Catalog, Part No. 789330.
- (7) JT9D-7R4 Illustrated Parts Catalog, Part No. 790148.
- (8) JT9D-7R4 Illustrated Parts Catalog, Part No. 793294.
- (9) Hamilton Standard Service Bulletin 75-3.
- (10) Hamilton Standard Service Bulletin 75-4.
- (11) Hamilton Standard Overhaul Manual, Part No. 720000.
- (12) Service Bulletin No. JT9D-7R4-75-93; Air-Cylinder, Bleed Valve Modification of Selected Cylinders. Issue Sequence 75-93, JT9D-7R4 Series.

Note: Reference (9), (10), and (12), are listed to facilitate determining prior configurations relative to this bulletin.

Other Publications Affected

JT9D-7R4 Illustrated Parts Catalog, Part No. 784409, 789330, 790148, 793294. 75-31-00, Figure 1.



Progression of the Bleed Valve Cylinder

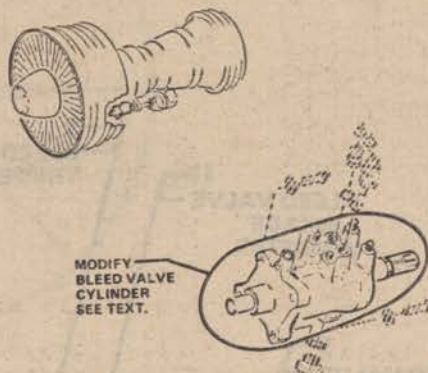
Parts Progression to Depict Modification Relationships

Accomplishment Instructions

- A. Remove the Bleed Valve Cylinder, PN 774300 (HSD 720000-6) or 806885 (HSD 720000-8) per Reference (2), (3), or (4), Chapter/Section 72-00-34, Removal-07.
- B. Make a modification to the bleed valve cylinder in accordance with Reference (10).

C. Identify the Bleed Valve Cylinder, PN 774300 (HSD 720000-6) or 806885 (HSD 720000-8) as PN 807333 (HSD 720000-11) and 807334 (HSD 720000-12) respectively.

D. Install the bleed valve cylinder per Reference (2), (3), or (4), Chapter/Section 72-00-34, Installation-07.

LOCATION OF BLEED VALVE CYLINDER
FIGURE 1

Appendix 6

Modification of the Bleed Valve Cylinder

References: (1) Turbojet Engine Standard Practices Manual, Part No. 585005.
(2) Hamilton Standard Service Bulletin 75-4.

(3) JT9D-7R4 Engine Manual, Part No. 785059.

(4) Boeing Maintenance Manual.

Accomplishment Instructions: Make a modification to the Bleed Valve Cylinder, PN 774300 (HSD 720000-6) or 806885 (HSD 720000-8) while the bleed valve cylinder remains installed on the aircraft.

(1) Remove the parts necessary to gain access to the bleed valve cylinder tube openings as specified in Reference (4), Chapter/Section 75-32-03, Removal/Installation.

(2) Make a modification to the Bleed Valve Cylinder, PN 774300 (HSD 720000-6) or 806885 (HSD 720000-8) as stated in Reference (2).

(3) Identify the modified Bleed Valve Cylinder, PN 774300 (HSD 720000-6) or 806885 (HSD 720000-8) as PN 807333 (HSD 720000-11) and 807334 (HSD 720000-12), respectively.

Note: The reidentification may be marked on any accessible area of the bleed valve cylinder as the data plate is not accessible when the bleed valve cylinder is installed.

(4) Install the parts removed in Step (1) per Reference (4), Chapter/Section 75-32-03, Removal/Installation.

Appendix 7

1. 3.0 Bleed Valve Linkage Wear Check

A. General

(1) The following procedure measures wear of the 3.0 bleed valve linkage. Wear exceeding 0.100 inch (2.54 mm) affects surge margin and should be corrected at the next shop visit.

B. Procedure

See Figure 601.

(1) Remove 7 o'clock rear inner fan exit sound absorbing liner segment. See Figure 601 (Sheet 2) and 72-33-06, Removal/Installation-01.

(2) Remove cotter pin (601/6), nut (601/7) and pin (601/8) securing lower push-pull feedback cable (601/9) to push-pull cable adjuster (601/10). Discard cotter pin.

(3) Fully open bleed valve (601/1) by pushing forward on bleed switch tripper (601/3).

(4) For engines equipped with propulsion multiplexer. Remove cotter pin (601/15), collar (601/14) and pin (601/12) securing bleed position transducer (601/13) to bleed switch tripper (601/3). Discard cotter pin. See Figure 601 (Sheet 3). Temporarily secure bleed position transducer to 3.0 bleed valve actuator (601/5).

(5) Remove lockwire and bolt (601/2) securing bleed valve linkage adjuster (601/11), internal bleed valve linkage rod (601/4) and bleed switch tripper (601/3). Remove bleed switch tripper.

(6) Insert wooden spacer, approximately one inch (25.4 mm) wide, into bleed port nearest bleed valve linkage rod (601/4).

(7) Close bleed valve (601/1) on wooden spacer by pulling push-pull cable adjuster (601/10) rearward.

Note: Apply minimum pressure on wooden spacer to avoid damaging seal on bleed valve (601/1).

(8) Clamp bleed valve (601/1) in the partially open position using three inch (75 mm) "C" clamp. See Figure 601 (Sheet 2). Clamping force shall be minimum force required to immobilize bleed valve.

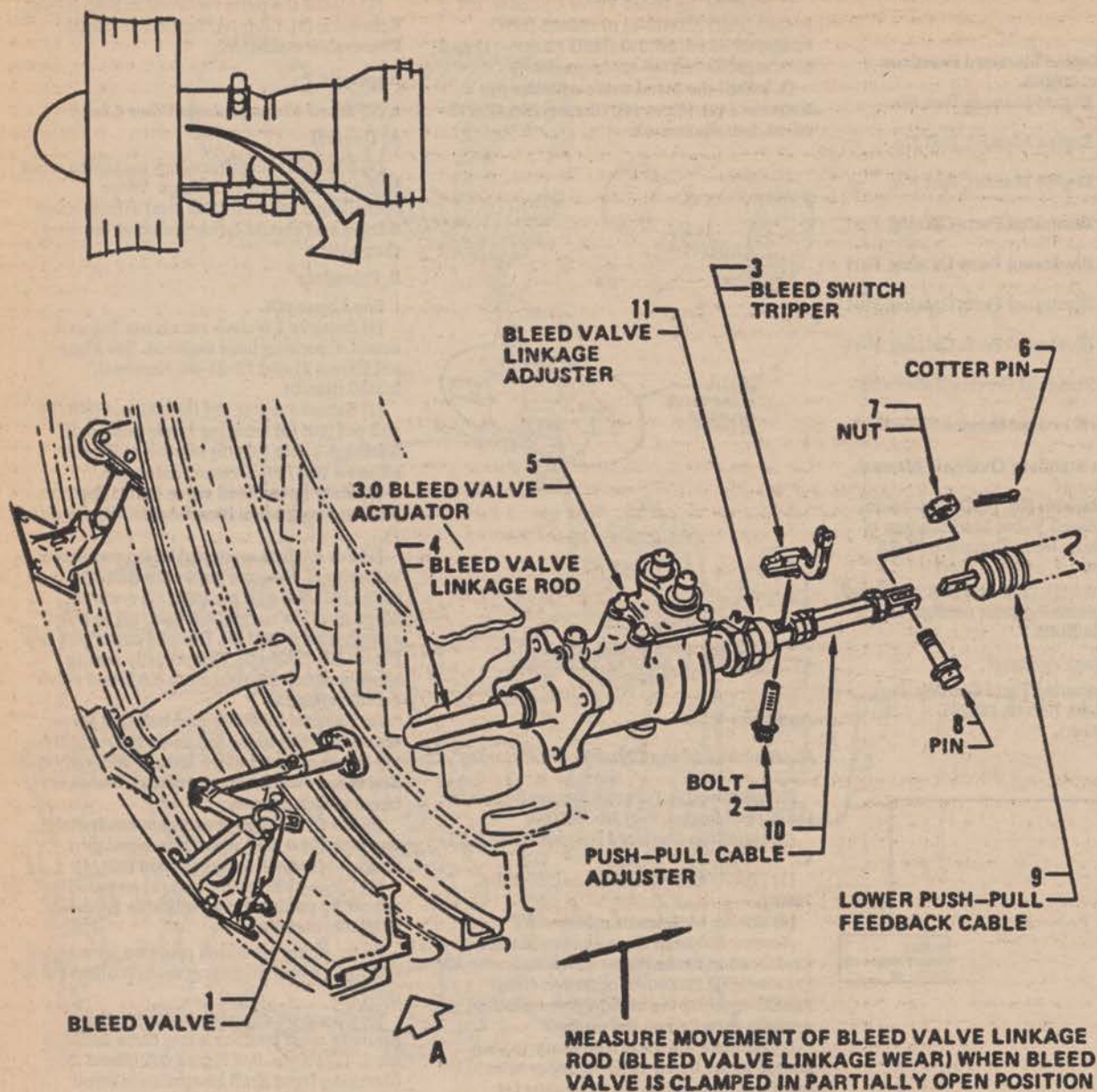
Note: Marring of aluminum bleed valve may be avoided by using tape on clamping surfaces of clamp.

(9) Check wear of 3.0 bleed valve linkage by measuring axial movement at adjuster (601/10) using dial indicator. Record wear.

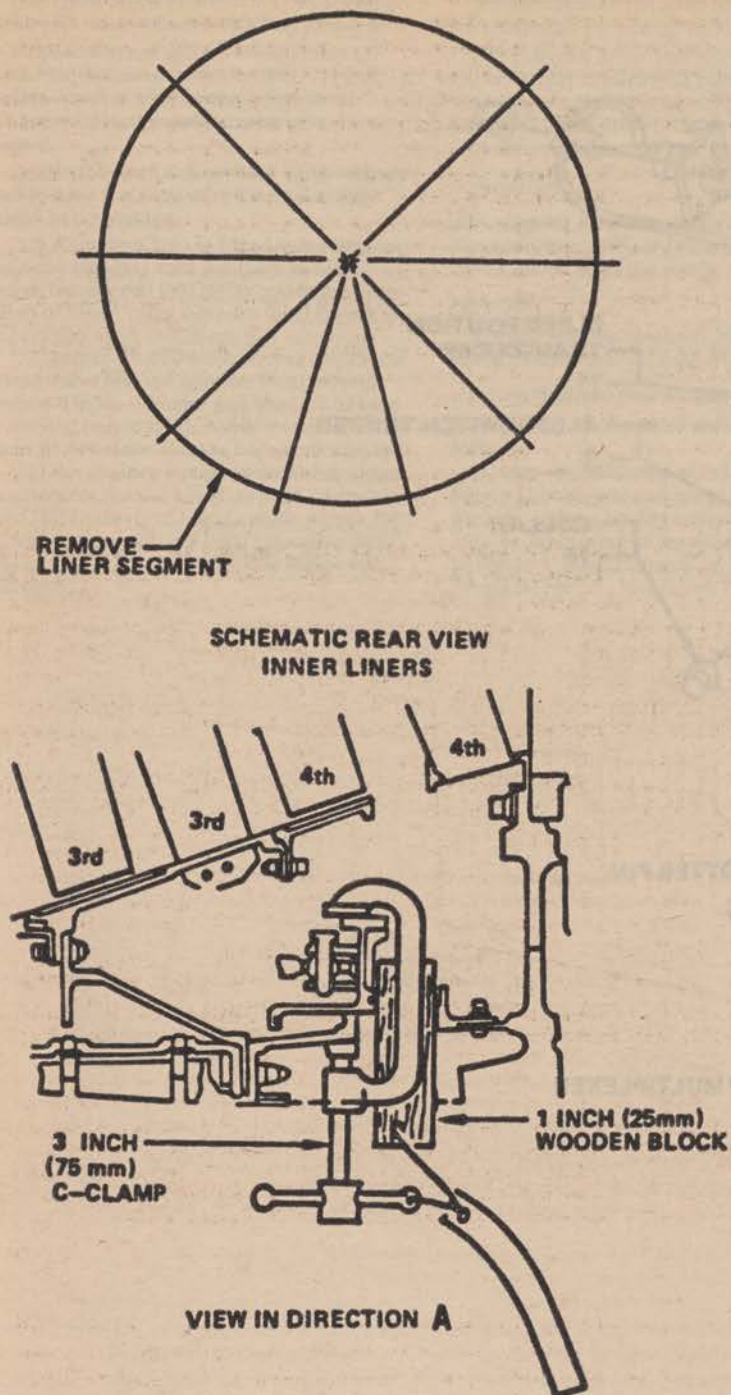
(10) Remove "C" clamp and wooden spacer from bleed port.

(11) Replace sound absorbing liner segment. See 72-33-06, Removal/Installation-01.

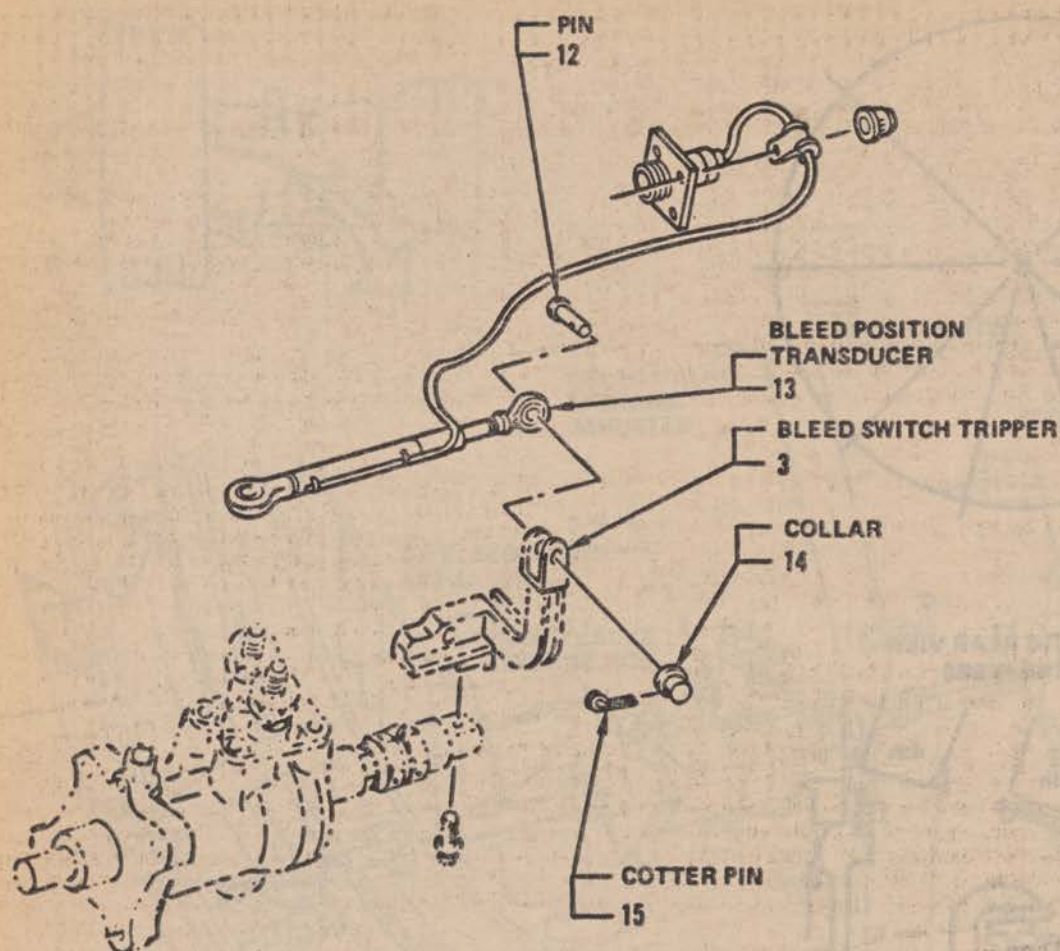
BILLING CODE 4910-13-M



**Checking 3.0 Bleed Valve
Linkage Wear**



Checking 3.0 Bleed Valve
Linkage Wear
Figure 601 (Sheet 2)



FOR ENGINES EQUIPPED WITH PROPULSION MULTIPLEXER

Checking 3.0 Bleed Valve
Linkage Wear
Figure 601 (Sheet 3)

(12) Open bleed valve (601/1) by pushing push-pull cable adjuster (601/10) forward.

Caution: Do not disturb relationship of bleed valve linkage adjuster (601/11) and hollow shaft of bleed valve actuator. If disturbed, bleed valve actuator must be re-rigged.

Caution: Do not rotate bleed valve linkage rod (601/4). Rotation of rod may damage bleed valve linkage.

(13) Align bolt hole in bleed valve linkage adjuster (601/11) with bolt hole in bleed valve linkage rod (601/4) by rotating hollow shaft of bleed valve actuator (501/5) and/or by moving shaft or linkage rod axially.

(14) Install bleed switch tripper (601/3) on bleed valve linkage adjuster (601/11) and secure tripper, adjuster and internal linkage rod using bolt (601/2). Apply torque of 65–85 lb-in. (7.344–9.604 N.m) to bolt. Lockwire bolt.

(15) For engines equipped with propulsion multiplexer. Install bleed position transducer (601/13) in clevis of bleed switch tripper (601/3) and secure with pin (601/12), collar (601/14) and cotter pin (601/14). See Figure 601 (Sheet 3).

Note: Flange on pin (601/12) and collar (601/15) shall be located as shown.

(16) Connect lower push-pull feedback cable (601/9) to push-pull cable adjuster (601/10) using pin (601/8) and nut (601/7). Apply torque of 45–60 lb-in. (5.084–6.779 N.m) to nut and secure with cotter pin.

Appendix 2

Air—Engine Vane and Bleed Control—Incorporation of Fluid Drain Between Sensor Servo Piston Chevron Seals

Reference

Component Maintenance Manual with illustrated Parts List 75–34–01.

Accomplishment Instructions

A. Modify engine vane and bleed control as follows:

(1) Inspect width of piston land, ("C", in Figure 1) on piston and insert PN 728050–1. Rework pistons having sufficient width of land by machining to the dimensions shown in Figure 1. Inspect reworked piston by magnetic particle inspection per AMS2640,

using direct current applied of 300 amperes, and coil, 3000 ampere-turns. Reidentify reworked piston as PN 786018–1, and add "(SK104779)" above or below the new PN marking.

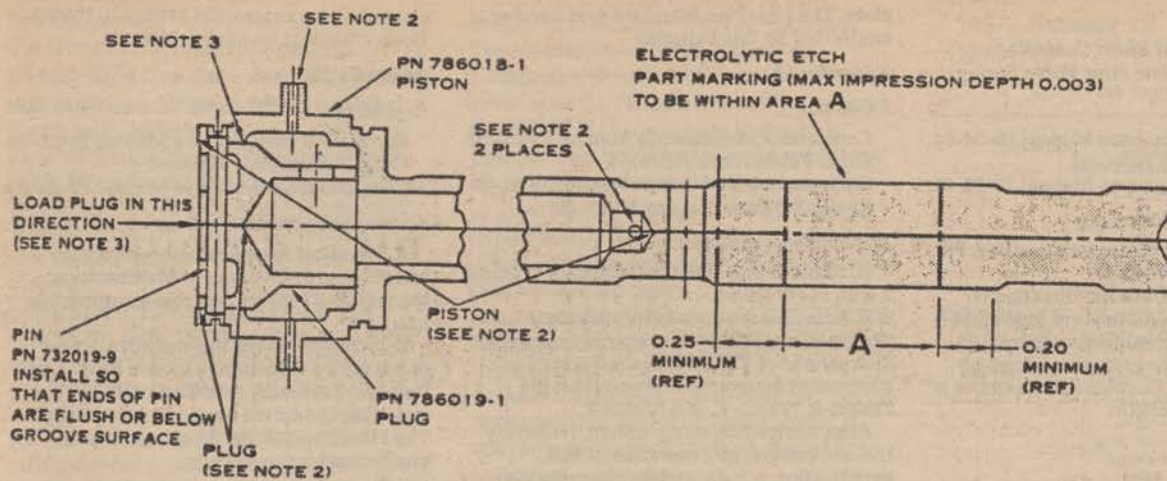
(2) Coat mating surfaces of piston ID and OD of servo plug, PN 786019–1, with Locquic Primer T and Loctite 640 per MIL–S–22473. Assemble plug into piston per Figure 2. With plug loaded (20±3 pounds) in direction shown, insert pin, PN 732019–0, and cure sealant for 30 minutes at 250±10 °F (121.1±5.5 °C).

(3) Identify piston and plug assembly as PN 786020–1.

B. Assemble and calibrate Engine Vane and Bleed Control in accordance with instructions in Component Maintenance Manual 75–34–01.

C. Incorporation of this modification is indicated by Hamilton Standard stock list number. Reidentify modified units by including "L8" on the unit identification plate. The Hamilton Standard part number is unaffected by this bulletin.

BILLING CODE 4910-13-M



NOTES:

1. DIMENSIONS IN INCHES.
2. INSPECT INCLUDED AREA USING 5X MAGNIFICATION WITH 150 FOOT CANDLES MINIMUM LIGHTING INTENSITY. NO VISIBLE CONTAMINANTS ALLOWED.
3. PRIOR TO APPLYING PRIMER, SOLVENT CLEAN WITH SOLVENT PER AMS3160 AND AIR DRY. CHECK FOR CONTAMINANTS WITH 50 FOOT CANDLES OF LIGHTING. NONE ALLOWED.

Assembly of Servo Piston and Plug
Figure 2

BILLING CODE 4910-13-C

Appendix 9**Air-Engine Vane and Bleed Control—
Incorporation of a New Pilot Valve Spring****Reference**

- Component Maintenance Manual 75-34-01.
- Other Publications Affected.
- Component Maintenance Manual 75-34-01.

Accomplishment Instructions

- Replace helical compression spring, PN 728180-1 with PN 801040-1.
- Incorporation of this modification is indicated by Hamilton Standard Stock List Number. Reidentify modified units by including "L12" on the units identification plate. The Hamilton Standard part number is unaffected by this bulletin.

Appendix 10**Reference**

- Component Maintenance Manual 75-34-01
- Other Publications Affected
- Component Maintenance Manual 75-34-01

Accomplishment Instructions

- Replace helical compression spring, PN 765682-1 with PN 801073-1.
- Recalibrate engine vane and bleed controls in accordance with instructions in Component Maintenance Manual 75-34-01 for controls incorporating L13.
- Incorporation of this modification is indicated by Hamilton Standard Stock List Number. Reidentify modified units by including "L13" on the units identification plate. The Hamilton Standard part number is unaffected by this bulletin.

Appendix 11**Reference**

- Component Maintenance Manual 75-34-01

Accomplishment Instructions

- Replace servo cam PN 765357-10 with PN 765357-11.
- Calibrate the engine vane and bleed control PN 776555-3 or PN 776555-6 in accordance with instructions for PN 776555-5 of *Testing* in referenced overhaul manual.
- Incorporation of this modification is indicated by changing the Hamilton Standard Part Number on the unit identification plate.

Old part number	New part number
776555-3	776555-5
776555-6	776555-5

HS stock list "L" numbers are not affected by this bulletin. Retain existing stock list numbers.

Appendix 12**Reference**

- Component Maintenance Manual 75-34-01

Accomplishment Instructions

- Replace actuator valve PN 728149-3 with PN 800997-1.
- Incorporation of this modification is indicated by Hamilton Standard Stock List Number. Reidentify modified units by including "L14" on the units identification

plate. The Hamilton Standard part number is unaffected by this bulletin.

Appendix 13**Reference**

- Component Maintenance Manual 73-21-20
- Other Publications Affected
- Component Maintenance Manual 73-21-20
- Illustrated Parts Catalog 73-21-20

Accomplishment Instructions

- Replace Speed Set 3-D Cam PN 774537-7 with PN 774537-9.
 - Recalibrate controls PN 773333-3, 773333-4, and 773333-5 in accordance with instructions of *TESTING* as referenced in component maintenance manual for PN 773333-6, 773333-7, and 773333-8.
- After completing recalibration, reidentify the fuel control. Incorporation of this modification is indicated by changing the Hamilton Standard Part Number on the unit identification plate.

Before remarking	After remarking
773333-3	773333-6
773333-4	773333-7
773333-5	773333-8

Prior to Revision 1 of this service bulletin, incorporation of this modification was identified by the addition of L22 on the unit identification plate. Any controls that had been modified to L22 should be identified to show the new control PN 773333-6, 773333-7, or 773333-8 as applicable.

Appendix 14**Reference**

- Component Maintenance Manual 73-21-20
- Other Publications Affected
- Component Maintenance Manual 73-21-20
- Illustrated Parts Catalog 73-21-20

Accomplishment Instructions

- Modify servo assembly, PN 728142-31 by replacing servo cam and sleeve, PN 774538-10 with PN 774538-13.
- Use Vibration Pen or Electrolytic Etch to reidentify modified servo assembly as PN 728142-34.
- Recalibrate controls PN 773333-6, 773333-7, and 773333-8 in accordance with instructions of *TESTING* as referenced in component maintenance manual for PN 773333-9, 773333-10, and 773333-11.
- After completing recalibration, reidentify the fuel control. Incorporation of this modification is indicated by changing the Hamilton Standard Part Number on the unit identification plate.

Before remarking	After remarking
773333-6	773333-9
773333-7	773333-10
773333-8	773333-11

Prior to Revision 1 of this service bulletin, incorporation of this modification was identified by the addition of L25 on the unit identification plate. Any controls that had been modified to L25 should be identified to

show the new control PN 773333-9, 773333-10, or 773333-11 as applicable.

Appendix 15**Reference**

- Component Maintenance Manual 73-21-20
- Other Publications Affected
- Component Maintenance Manual 73-21-20

Accomplishment Instructions

- Recalibrate engine fuel controls per instructions in Component Maintenance Manual 73-21-20 for controls incorporating L24.
- Incorporation of this modification is indicated by Hamilton Standard Stock List Number. Reidentify modified units by including L24 on the units identification plate. The Hamilton Standard part number is unaffected by this bulletin.

[FR Doc. 90-15055 Filed 6-29-90; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT****Office of the Assistant Secretary for
Housing—Federal Housing
Commissioner****24 CFR Parts 200 and 203**

[Docket No. R-90-1411; FR-2433-P-1]

RIN 2502 AE 48

**Authorize Additional Types of
Mortgages and Loans for Direct
Endorsement Processing**

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: Under current regulations, mortgages insured under sections 203(k) (Rehabilitation Mortgage Insurance); 222 (Mortgage Insurance for Service persons); and 240 (Purchase of Fee Simple Title from Lessors) of the National Housing Act may not be processed under the Direct Endorsement program. Also, mortgages currently eligible for direct endorsement processing may not be insured pursuant to section 238(c) (Mortgage Insurance in Federally Impacted Areas) or section 223(a)(7) (Refinancing Insured Mortgages) or 223(c) (Property Disposition Mortgages) of the National Housing Act. This rule makes the types of mortgages cited above eligible for processing through the Direct Endorsement program. The rule is based on the Department's belief that the availability of direct endorsement processing for these loans will not present any unusual or unacceptable insurance risk. The rule also proposes to

make a number of technical or "housekeeping" amendments relating to the Direct Endorsement Program.

DATES: Effective date: August 2, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen A. Martin, Director, Office of Insured Single Family Housing, Room 9266, Department of Housing and Urban Development, 451, Seventh Street, SW., Washington, DC 20410. Telephone (202) 708-3048. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 22, 1983, HUD published a final rule delegating to eligible mortgagees the authority to underwrite and close certain types of single family mortgages for submission to HUD/FHA for mortgage insurance endorsement (48 FR 11937). Under this new "direct endorsement" program, single family mortgage insurance loans, as defined under section 203(b), 203(i), 221(d)(2), 234(c) and 245(a) of the National Housing Act, are eligible for direct endorsement processing (see 24 CFR 200.163(a)(1)). On November 29, 1989, the Department published a proposed rule (54 FR 49094) which proposed adding to this list of eligible loans those authorized under sections 203(k), 220, 222 and 240 of the National Housing Act. This final rule adopts the provisions of the proposed rule adding these sections, except for section 220.

Upon reconsideration, section 220 was removed in this final rule. The Department decided that the benefits of including this low volume, limited use program were outweighed by the burdens involved in training direct endorsement lenders in its use.

Section 203(k) provides mortgage insurance to facilitate the rehabilitation of one- to four-family properties. Under the 203(k) program, HUD insures rehabilitation loans to (1) finance rehabilitation of an existing property; (2) finance rehabilitation and refinancing of the outstanding indebtedness of a property; and (3) finance purchase and rehabilitation of a property. An eligible rehabilitation loan must involve a principal obligation not exceeding the amount allowed under the section 203(b) basic home mortgage insurance program. Legislation establishing this program was enacted in 1961. As of November 1987, 4,496 loans have been insured under this program with a value of \$95,409,413. Experience under the program has demonstrated that it presents no unusual risks and that loans under it could be processed through the direct endorsement program.

Section 222 was enacted in 1954. Under it, the Department of Defense, Transportation (Coast Guard) or Commerce (National Oceanic and Atmospheric Administration) may pay the HUD/FHA mortgage insurance premium on behalf of service members on active duty under their jurisdiction. In general, the mortgages may finance single family dwellings or condominiums insurable under standard HUD home mortgage insurance programs. As of November 1987, 274,869 housing units have been insured under this program. Experience has demonstrated that it presents no unusual risks and that loans under it could be processed through the direct endorsement program.

Section 240—Purchase of Fee Simple Title from Lessors—Provides for insurance of mortgage loans to finance the purchase of fee simple title from lessors. The mortgagor must be a homeowner under a long-term lease on a property on which there is a residential structure of no more than four family units. As of November 1987, 359 mortgages have been insured under the program with a value of \$8,868,950. (The program is limited, since ground leases are not common in all areas of the country.)

Below are statistics for Fiscal Years 1985 through 1987, showing the number of cases insured, claims paid and the claims rate for the 203(k), 222 and 240 programs. Also shown are claim rates on all Direct Endorsement and HUD-processed cases insured during the same period of time. It is evident that the claim rates for the programs proposed to be added are not inordinately high compared to HUD's overall insurance claim rate.

The data, however, does indicate a lower claim percentage for Direct Endorsement-processed cases (3.41), as compared to regularly processed cases (7.92). With the Direct Endorsement claims rate being less than that for HUD processing, the Department feels justified in believing that Direct Endorsement lenders are acting responsibly.

Since the volume of mortgages insured under the programs this rule would include is so low (about 700 per year combined), we are convinced that any increased risk to the Department by including these programs would have minimal impact on the insurance funds.

NUMBER OF LOANS ENDORSED 1985-1987; NUMBER OF CLAIMS THROUGH 12/31/89

[by Section]

Section	No. insured	No. of claims	Claims rate
203(k).....	1,829	128	7.0
222.....	141	5	3.55
240.....	11	0	.00

NUMBER OF LOANS ENDORSED 1985-1987; NUMBER OF CLAIMS THROUGH 12/31/89

	HUD-processed endorsements	HUD-processed claims	HUD percent
Total.....	591,527	46,900	7.92
	Direct endorsement	D.E. claims	D.E. percent
Total.....	1,928,404	65,814	3.41

Under the direct endorsement program, certain categories of single family mortgages are specifically listed as ineligible for processing (see 24 CFR 200.163(a)(2)). Among those listed are mortgages insured pursuant to section 223 or 238(c) of the National Housing Act. The proposed rule published on November 29, 1989 (54 FR 49094) proposed to remove, from the current list of ineligible mortgages, those insured pursuant to section 223(a)(7) and 238(c). This final rule adopts, without change, this feature of the proposed rule.

Section 238(c) makes available Federal mortgage insurance for housing in areas affected by military installations. Mortgage insurance can be provided under various sections of Title II of the National Housing Act. With respect to this rule and the direct endorsement program however, only insuring authorities in the Act that pertain to one- to four-family mortgages are relevant. Properties are eligible, provided certain certifications are received from the Secretary of Defense and certain findings are made by the Secretary of HUD, where there is a military impact upon a local economy to the extent that a mortgage would not normally be insured. Such mortgages are an obligation of the Special Risk Insurance Fund. Legislation establishing this program was enacted in 1974. As of November 1987, 498 units have been insured under this authority, with a

value of \$21,186,963. While experience under this program has not been extensive, it has been adequate to demonstrate that it presents no risks incommensurate with those HUD is authorized to incur in connection with obligations of the Special Risk Insurance Fund, and that the loans could be processed through the direct endorsement program.

Section 223(a)(7) makes available Federal mortgage insurance for the refinancing of an existing mortgage, insured under a section of the National Housing Act, where the refinancing mortgage does not meet all eligibility requirements of that section, provided the following conditions are met: (1) The new mortgage must be in an amount which does not exceed the lesser of (a) the original principal amount of the existing mortgage, or (b) the sum of the unpaid principal balance of the existing mortgage, plus loan closing charges; (2) the term does not exceed the unexpired term of the existing mortgage, or an extended term acceptable to the Commissioner; (3) the new mortgage will result in a reduction in regular monthly mortgage payments; and (4) the mortgagor's record of payment on the existing mortgage meets standards established by the Commissioner. Regulatory provisions implementing section 223(a)(7) are contained in 24 CFR 203.43(c) and 234.52.

Mortgages insured pursuant to section 223(a)(7) are insured under the regular National Housing Act sections (e.g., section 203(b) or 234), and are not separately recorded or tracked by virtue of their having been processed pursuant to 223(a)(7). Any default or claims information would be reflected in that section under which the new mortgage was insured. No separate default or claim data is kept under the category 223(a)(7).

This rule also adds subsection 223(c) to the exceptions listed in § 200.163(a)(2). The effect of this change is to permit Direct Endorsement processing for insurance of mortgages either assigned to the Secretary or executed in connection with the sale of a Secretary-held property. In both instances, section 223(c) of the National Housing Act authorizes the Secretary to endorse the mortgage for insurance without regard to certain limitations and restrictions found elsewhere in the Act. The Department has been relying increasingly on direct endorsement processing in cases of this nature in order better to manage the growing burden of Secretary-held properties. HUD Handbook 4000.4 REV 1 on Direct Endorsement already authorizes use of

section 223(c) for property disposition cases. This regulatory change thus conforms the direct endorsement rule to a current HUD practice that has benefitted borrowers and lenders alike, while providing considerable relief to HUD's pressing problem of property disposition. For these reasons, it is both unnecessary and impractical to provide for public comment and procedure with respect to this change, which is being adopted for effect along with the other provisions of this rule. (As is the case with section 223(a)(7), no separate default or claim data is kept under the category 223(c).)

Under the heading of technical or housekeeping amendments, the November 29, 1989 rule proposed to revise § 200.164(c)(2). That paragraph currently requires a direct endorsement mortgagee (other than a supervised mortgagee or governmental institution) to be approved as a Federal National Mortgage Association (FNMA) seller, an issuer of Government National Mortgage Association (GNMA) mortgage-backed securities, or to have a net worth, in assets acceptable to the Secretary, of not less than \$250,000. The rule proposed to strike the references to FNMA and GNMA approval. Thus, all affected mortgagees would have to meet the \$250,000 net worth requirement. The grounds cited for this revision were that the Department has found the FNMA and GNMA alternatives for meeting HUD's financial responsibility requirement redundant and, at times, not entirely reliable. This rule adopts, without change, the provision contained in the proposed rule.

The November 29, 1989 proposed rule also proposed to revise § 203.258. That section currently authorizes a mortgagee to release a mortgagor from personal liability on a mortgage note and still retain the benefits of FHA insurance if it obtains the Secretary's approval of a substitute mortgagor (assumptor), who assumes personal liability and agrees to pay the mortgage debt. The proposed rule would add a sentence to this section stating: "Direct endorsement mortgagees need not obtain specific secretarial approval but may themselves approve an appropriate substitute mortgagor." Delegating this authority to the direct endorsement mortgagee is consistent with other delegations made in the direct endorsement program. Through an oversight, this particular delegation was not made at the inception of the program. This final rule adopts without change the provision in the proposed rule.

Public Comment on Proposed Rule

Four public comments were received on the November 29, 1989 proposed rule. One commenter, while generally supportive of the rule, raised two specific issues:

1. Proposals for technical amendments include the elimination of the non-supervised mortgagee requirement to also be an approved Federal National Mortgage Association lender. However, the requirement of a minimum \$250,000 net worth would be retained. It is stated (in the proposed rule preamble) that HUD has found the FNMA approval criteria to be less than a totally reliable alternative to meeting HUD's own requirements. Unfortunately, the proposal does not provide any detail supporting this conclusion and we are concerned about a lessening of eligibility standards for non-supervised lenders who may meet the net worth requirement but fail to meet the other standards of FNMA. We encourage you to carefully reconsider the abandonment of any FNMA lender criteria to ensure that no added exposure results.

HUD Response: The statement that the existing regulation requires a non-supervised mortgagee to also be an approved FNMA lender is incorrect. A non-supervised lender could either have GNMA or FNMA approval or could demonstrate the required \$250,000 net worth. Therefore, the Department is not lessening the eligibility standards but rather providing a consistent method for evaluating all non-supervised lenders.

2. As a final comment, a statement under Procedural Requirements is made that direct endorsement processing is a procedural device that should not affect the availability of FHA insurance to small mortgagees. Based on member experience, this statement may not be totally accurate. A problem exists in certain locales where approved direct endorsement underwriters are in short supply. As a result, large institutions offer compensation levels that cannot always be matched by those of lesser size. This has the effect of making institutions who must therefore rely on the prior approval system to be noncompetitive and unable to avail themselves of FHA lending opportunities. This effect may be inescapable but it should not be totally dismissed and efforts should be made to make the procedural benefits available down to the smallest possible producers.

HUD Response: The direct endorsement procedure is available to any lender, regardless of size, provided it can meet HUD requirements for participation in the program. These requirements are not onerous and we find nothing inherent in the program which tends to discriminate against small lenders.

Another commenter recommended that HUD permit lenders to control the appraisal process and to select the

appraiser who will perform appraisal assignments in a professional and timely manner. It claimed Fannie Mae and Freddie Mac both have been very successful with this process.

HUD Response: Direct endorsement lenders may use their own appraisers, provided they were approved and trained for home mortgage and 203(k) processing by the local HUD field office.

Two commenters, noting the greater complexity of section 203(k) rehabilitation loan underwriting, recommended that HUD update its current manuals and materials, provide local HUD area office training, increase available fees, and generally be more available for technical advice on this program.

HUD Response: HUD Handbook 4240.4 REV-1 was signed and implemented in September 1989. Field offices will be trained in handbook procedures in March 1990 and will train lenders in the near future. Fees for section 203(k) processing were reviewed and reflected in the handbook instructions.

Finally, one commenter expressed the following very significant concern:

Over the years, the lending institution I work for has not been involved in the 203(k) program but my sense is that someday, we may pursue this type of HUD loan. Given the requirements that, if a loan is eligible for direct endorsement processing, it must be handled as a direct endorsement case, I have the utmost concern of adding 203(k) to the direct endorsement eligibility list without having an option to process, at least the appraisal portion, under regular procedures to obtain a Conditional Commitment.

If and when the day ever comes that I or the institution I work for has to handle a 203(k) case, the requirements and documentation are so onerous and intimidating (as I understand them to be), that without HUD overseeing the appraisal, I have a genuine concern as to our ability to obtain the insurance certificate [a result] which would not be productive.

HUD Response: Direct endorsement lenders will have the choice of (1) processing 203(k) loans fully under direct endorsement; (2) obtaining a conditional commitment from HUD and processing the borrower under direct endorsement, or (3) processing the case totally through HUD's prior approval process. Although direct endorsement lenders will be eligible to process 203(k) under direct endorsement, the underwriters must be trained, and must submit 203(k) test cases, before full approval for direct endorsement processing of 203(k) will be granted.

Procedural Requirements

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the

Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. Direct endorsement processing is essentially a procedural device that does not affect the availability of FHA insurance to small mortgagees, but only the means by which their applications for mortgage insurance are processed.

This rule was listed in the Department's Semiannual Agenda of Regulations published on April 23, 1990 (55 FR 16226, 16246) as item H-4-88 (Sequence No. 1170) under Office of Housing in compliance with Executive Order 12291 and the Regulatory Flexibility Act.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available 1969. The Finding of No Significant Impact is available for public inspection during regular business hours (7:30 a.m. to 5:30 p.m.) in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not (1) have an effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises in domestic or export markets.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have federalism implications and, thus, are not subject to review under the Order. The rule merely extends to additional types of FHA-insured mortgages an accelerated processing procedure that has proved successful in the FHA's basic home mortgage insurance programs.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive

Order 12606, the Family, has determined that this rule does not have a potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. This rule is limited to making certain additional types of single family mortgages eligible for accelerated processing. The impact of the rule, if any, on families should be positive, but any impact would be extremely indirect.

(The catalog of Federal Domestic Assistance program numbers 14.108, 14.165 and 14.166)

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and record keeping requirements, Minimum Property Standards, Incorporation by reference.

24 CFR Part 203

Home improvement, Loan programs, Housing and community development, Mortgage insurance, Reporting and record keeping, Urban renewal.

Accordingly, 24 CFR parts 200 and 203 are amended as follows:

PART 200—INTRODUCTION

1. The authority citation for 24 CFR part 200 is revised to read as follows:

Authority: Titles I and II, National Housing Act (12 U.S.C. 1701-1715z-18); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Paragraphs (a)(1), (a)(2), (a)(3), (b)(2), (b)(5), (b)(5)(xi) (A), (B), (C), (D), (E), (F), (G), and (H), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5) and (c)(7) of § 200.163 are revised to read as follows:

§ 200.163 Direct endorsement.

(a) * * *

(1) Single family mortgage insurance loans defined under sections 203(b), 203(i), 203(k), 221(d)(2), 222, 234(c), 240 and 245 of the National Housing Act would be eligible for processing under this section.

(2) Single family mortgages insured under any of the programs listed in paragraph (a)(1) of this section pursuant to section 223 (except for subsections 223(a)(7) and 223(c)), 225, 244, 247, or 248 of the National Housing Act are not eligible for processing under this section. The provision contained in 24 CFR 221.55 which permits a builder-mortgagor to sell a property to a

displaced family on a deferred basis is not available in the Direct Endorsement program.

(3) The Secretary shall publish in the Single Family Direct Endorsement Program handbook a list of the mortgage loans by type which are eligible for Direct Endorsement processing under this section. Such listing shall set forth with particularity the required certifications applicable to each mortgage type.

(b) * * *

(2) *Guidelines for underwriting procedures.* The Secretary shall publish guidelines for underwriting procedures in the Single Family Direct Endorsement Program handbook. Compliance with these guidelines will be considered by HUD to be the minimum exercise of due diligence in the underwriting of mortgage loans.

(5) *Submission for endorsement.* Upon a determination by the mortgagee that the proposed mortgage is eligible for insurance under 24 CFR part 203, 221, 222, 234, or 240, the mortgage is executed. Within 30 days (or within such other period as may be approved by the Secretary) following the date of closing of the loan, the mortgagee shall submit the following documents, as are appropriate, and which are properly executed, to HUD/FHA at which point the loan will be considered for endorsement in accordance with paragraph (d) of this section.

(xi) * * *

(A) That the mortgage satisfies the requirements (as appropriate) of 24 CFR 203.17, or the requirements of § 203.17 as made applicable in § 222.1(a), or the requirements of 24 CFR 203.50(i), 221.5, 221.25, 221.30, 221.32, 221.35 or 221.40, and 221.45, 234.25, or 240.16;

(B) That the mortgage shall be on real estate held in fee simple, or on a leasehold under a lease for not less than 99 years which is renewable, or under a lease which otherwise meets the requirements of 24 CFR 223.37, 240.15 or 203.37 as made applicable in § 221.1(a), § 222.1(a) or § 234.65;

(C) That any graduated payment mortgage meets the requirements established under 24 CFR 203.45, or 203.45 as made applicable in § 222.1(a) or 234.75; any growing equity mortgage meets the requirements established under 24 CFR 203.47 or 234.77; and any adjustable rate mortgage meets the requirements established under 24 CFR 203.49 or 234.79;

(D) That the property covered by the mortgage meets the flood plain

requirements set forth in § 203.16a, or § 203.16a as made applicable in § 221.1(a), § 222.1(a) or § 234.17;

(E)(1) That the stated mortgage amount satisfies the requirements of

(i) 24 CFR 203.18, 203.18a, 203.18b, or 203.29; or

(ii) 24 CFR 203.29 as made applicable in § 221.1(a), § 221.10, § 221.11, § 221.20, § 221.50, § 234.27, or § 234.49; or

(iii) 24 CFR 203.50(f), 222.3, or 240.5; and

(2) For a mortgage given to refinance a mortgage, the stated amount satisfies the limitations set forth in paragraph (b)(5)(xi)(E)(1) of this section, and any further limitation prescribed by the Secretary.

(F) That the mortgagor has made the minimum investment required by 24 CFR 203.19, 221.50, 222.5, or 234.28, and no prepaid expenses, other than those listed in 24 CFR 221.54 and those specifically approved by the Secretary, were included in determining the mortgagor's minimum investment.

(G) That for a mortgage involving refinancing to be insured under 24 CFR 221.21, the mortgage, in addition to the limitations contained in §§ 221.10, 221.11 and 221.20, does not exceed the estimated cost of repair and rehabilitation and the amount required to refinance the existing indebtedness secured by the property.

(H) That for property located in an outlying area, the mortgage meets the requirements of 24 CFR 203.18(d); and

(c) * * *

(1) That the mortgage property is located in a community where the housing standards and location meet the requirements of 24 CFR 203.40, or of § 203.40 as made applicable in § 222.1(a), or of § 240.1(a);

(2) That there is located on the mortgage property a dwelling unit designed principally for residential use for not more than four families, as required by 24 CFR 203.38, 222.9, or 240.15, or by § 203.38 as made applicable in § 221.1(a);

(3) That the mortgagor's monthly mortgage payments will not be in excess of his or her reasonable ability to pay, as required under 24 CFR 203.21, 221.1(a), 222.1(a), 240.1(a), or as required under § 234.36;

(4) That the mortgagor's income is and will be adequate to meet the periodic payments required for the mortgage submitted for insurance, as required under 24 CFR 203.33, 221.1(a), 222.1(a), 234.56, or 240.1(a);

(5) That the mortgagor's general credit

standing is satisfactory, as required under 24 CFR 203.34, or under 203.34 as made applicable in § 221.1(a), 222.1(a), 234.57, or 240.1(a).

* * *

(7) In cases where the mortgaged property is subject to—

(i) A secondary mortgage or loan made or insured, or other secondary lien held, by a Federal, State or local government agency or instrumentality or

(ii) A junior (second or third) mortgage securing the repayment of funds advanced to reduce the mortgagor's monthly payments on the insured mortgage following the date it is insured; that the applicable requirements of 24 CFR 203.32 (b), (c) or (d) as made applicable in § 221.1(a), § 222.1(a), § 222.1(a), or § 234.55, are met;

3. Paragraph (c)(2) of § 200.164 is revised to read as follows:

§ 200.164 Approval of direct endorsement mortgagees

(c) * * *

(2) The mortgagee, other than a supervised mortgagee or governmental institution, has a net worth, in assets acceptable to the Secretary, of not less than \$250,000.

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

4. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: Sections 203 and 211, National Housing Act (12 U.S.C. 1709, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In addition, Subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

5. Section 203.258 is revised to read as follows:

§ 203.258 Assumption with or without release of mortgagor.

The mortgagee may effect the release of a mortgagor from personal liability on a mortgage note while retaining the benefits of insurance under this part if the mortgagee obtains the Secretary's approval of a substitute mortgagor (assumptor) who assumes personal liability and agrees to pay the mortgage debt. Direct endorsement mortgagees need not obtain specific secretarial approval but may themselves approve an appropriate substitute mortgagor.

Dated: June 20, 1990.

James E. Schoenberger,
Associate General Deputy Assistant
Secretary for Housing—Federal Housing
Commissioner.

[FR Doc. 90-15150 Filed 6-29-90; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Part 885

[Docket No. R-90-1478; FR-2755-F-01]

RIN 2502-AE93

Loans for Housing for the Elderly or Handicapped—Requirements for Awarding Construction Contracts

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the provisions of 24 CFR part 885 which govern projects that receive direct loans under section 202 of the Housing Act of 1959 and housing assistance under Section 8 of the United States Housing Act of 1937. The rule amends regulatory provisions governing the awarding of construction contracts to give each borrower the option of choosing its contractor by using either competitive bidding or a negotiated noncompetitive method of contract award. This revision is intended to facilitate processing of section 202 applications by giving borrowers the option to select construction contractors earlier in the process by using the negotiated noncompetitive method of contract award.

EFFECTIVE DATE: August 2, 1990.

FOR FURTHER INFORMATION CONTACT: Robert W. Wilden, Director, Assisted Elderly and Handicapped Housing Division, Office of Elderly and Assisted Housing, Room 6116, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-2730. Hearing- or speech-impaired individuals may call HUD's TDD number, (202) 755-3938. (These telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Purpose

HUD's regulations at 24 CFR 885.416 govern the requirements for awarding construction contracts by borrowers which have received reservations of section 202 loan authority and section 8 contract authority in order to develop housing for the elderly or handicapped. This final rule amends § 885.416 to give each borrower the option of choosing its contractor by using either competitive

bidding or a negotiated noncompetitive method of contract award. The previous regulation permitted negotiated contracts for most borrowers, but required competitive bidding of those borrowers, excluding labor organizations, which had loans of \$2 million or more and rents at 110 percent or more of the Fair Market Rents applicable to section 202 projects in effect at the time of the Fund Reservation for the project.

The competitive bidding requirement has not worked well in the Section 202 program. Private nonprofit borrowers generally need to work with a contractor during the early planning process, in order to assure that the project is designed with efficient construction in mind. The competitive bidding process creates a situation where the potential contractors do not become involved until after the architect completes the detailed plans and specifications, at which point it is too late to make practical modifications which can result in project savings. There have been instances where projects have gone to bid, and none of the bids came in at a price that could be supported by the mortgage. On occasion a negotiating process between the borrower and the low bidder has resulted in plan modifications and price reductions to the point where the project has become feasible. The competitive bidding process has also resulted in delays, especially where none of the initial bids came in within budget. Because of the problems and processing delays associated with competitive bidding, and in order to move the pipeline of projects reserved but not started forward in a responsible way, the Department has decided to make competitive bidding optional for all borrowers. The Department has effective procedures covering both negotiated and competitive construction contracts, and both procedures will remain in place, so that borrowers will be able to use the appropriate procedures depending upon which type of construction contract award that they choose.

This rule also makes it clear that regardless of which method the borrower uses to award construction contracts, there should be an opportunity for minority owned and women owned businesses to be awarded a contract.

Since this rule represents a relaxing of the previous rule, and will not have an adverse impact on any sponsor/borrower, therefore, the Department has determined that prior notice and comment are unnecessary.

II. Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969, 41 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10278, 451 Seventh Street SW., Washington, DC 20410-0500.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities because, rather than imposing new requirements on sponsors or borrowers or resulting in the expenditure of more funds by sponsors or borrowers, this rule amends existing policies to facilitate the processing in a more timely way.

The General Counsel, as the Designated Official Under Executive Order No. 12606—The Family, has determined that this rule will not have a significant impact on family formation, maintenance, or well-being. The rule does not change basic program requirements. Rather, it should facilitate processing of projects to completion.

The General Counsel as the Designated Official under section 6(a) of Executive Order 12611—Federalism, has determined that this rule does not involve the preemption of State law, and does not affect the relationship between the Federal government and the States or the distribution of power or responsibilities among the various levels of government because the rule applies to borrowers, which are private entities. The rule gives these borrowers more discretion to award construction

contracts through negotiated noncompetitive methods.

This rule was listed as item 1161 in the Department's Semiannual Agenda of Regulations published April 23, 1990 (55 FR 16226, 16244) under Executive Order 12291 and the Regulatory Flexibility Act.

(The Catalog of Federal Domestic Assistance Program title and number is 14.157, Housing for the Elderly or Handicapped.)

List of Subjects in 24 CFR Part 885:

Aged, Handicapped.

Accordingly, the Department amends 24 CFR part 885 as follows:

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

1. The authority citation for 24 CFR part 885 continues to read as follows:

Authority: Section 202, Housing Act of 1959 (12 U.S.C. 1701q); sec. 8, United States Housing Act of 1937 (42 U.S.C. 1437f), sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 885.416, the introductory text of paragraph (b) and paragraph (c) are revised, to read as follows:

§ 885.416 Requirements for awarding construction contracts.

(b) Each Borrower is permitted to use either competitive bidding (formal advertising) in selecting a construction contractor or the negotiated noncompetitive method of contract award under paragraph (c) of this section. In competitive bidding, sealed bids are publicly solicited and a firm, fixed-price contract is awarded (in accordance with the requirements of this paragraph (b)) to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price. Regardless of which method a Borrower uses, there should be an opportunity for minority owned and women owned businesses to be awarded a contract.

(c) A Sponsor or Borrower may award a negotiated, noncompetitive construction contract.

Dated: June 20, 1990.

C. Austin Fitts,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 90-15151 Filed 6-29-90; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[24310-05-M]

30 CFR Part 901

Alabama Regulatory Program; Extension of Study Concerning Excess Spoil Disposal

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the extension of the trial period for a study of provisions for the disposal of excess spoil on abandoned mine sites contained in the Alabama regulatory program (hereinafter referred to as the Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The trial period is extended to January 1, 1991. This extension is necessary in order for the Director of OSM to consider and evaluate the results of several test sites that have implemented the Alabama provisions for the disposal of excess spoil on abandoned mine sites.

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert A. Penn, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 280 West Valley Avenue, room 302, Homestead, Alabama 35209; Telephone (205) 731-0890.

SUPPLEMENTARY INFORMATION:

- I. Background on the Alabama Program.
- II. Submission of Amendments.
- III. Director's Findings.
- IV. Disposition of Comments.
- V. Director's Decision.
- VI. Procedural Determinations.

I. Background on the Alabama Program

On May 20, 1982, the Secretary of the Interior conditionally approved the Alabama Program. Information pertinent to the general background, revisions, modifications, and amendments to the permanent program submission as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Alabama program can be found in the May 20, 1982, *Federal Register* (47 FR 22030). Subsequent actions taken with regard to Alabama's program and program amendments can be found in 30 CFR 901.10, 901.15, and 901.30.

II. Submission of Amendments

The Secretary's conditional approval of the Alabama regulatory program on May 20, 1982, (47 FR 22030) announced that a one-year trial period would be held in order to evaluate the adequacy of Alabama's plan for disposal of excess spoil on abandoned mine sites. The one-year period expired May 10, 1983, and was extended by the Secretary to August 20, 1984, on July 27, 1983, (48 FR 34026). The extension was granted because few permit applications requesting approval to use the excess spoil provisions had been received, and the data was therefore insufficient to allow OSM to make a meaningful evaluation of the plan at that time.

On May 23, 1985, (50 FR 21254) the Secretary again extended the trial period to August 20, 1989, due to insufficient data available to make a meaningful evaluation.

On November 15, 1988, the State submitted to OSM, a status report to fulfill the provisions of terms of approval of the Alabama program and subsequent extensions of the trial period concerning excess spoil disposal. After a thorough review of the status report and additional investigation, OSM decided that a further extension of time was necessary to build sufficient data upon which to base an evaluation of the excess spoil disposal program. Therefore, OSM proposed on January 8, 1990, (55 FR 647-649) to extend the trial study period until January 1, 1991, and to amend the Federal rules at 30 CFR 901.15 to implement this action.

III. Director's Findings

On July 27, 1983, (48 FR 34026) the Director extended the trial period to study the effectiveness of the provisions for the disposal of excess spoil to August 20, 1984. On May 23, 1985, (50 FR 21254) the trial period was further extended to August 20, 1989. Both extensions were due to insufficient data to adequately evaluate the effectiveness of the provisions. The latter extension specified the completion of six sites as the minimum basis for a decision as to the practicability of the State's excess spoil provisions.

On November 15, 1988, the Alabama Surface Mining Commission (ASMC) submitted a report to OSM on the excess spoil projects. OSM has reviewed this report and performed additional investigations on the sites covered. While additional sites have been approved or are in progress, a total of only five sites have been completed to date. At least one additional site is expected to be completed by the middle

of 1990. The Director, in the May 23, 1985, *Federal Register*, stated that a completion of six projects, and preferably more, would be required to provide adequate data to enable OSM to do an accurate analysis. The completion of the one additional site will constitute a sample of six sites, which will fulfill the minimum number of test sites upon which OSM can base an adequate analysis.

Therefore, the Director is extending the trial period until January 1, 1991. The trial period is extended with a continuation of the following stipulations imposed by the Director on May 23, 1985:

(1) The Director, at his discretion, may terminate the trial study period at any time during the extended period, if sufficient data becomes available for a meaningful evaluation of the trial study. Upon termination of the trial study period and OSM's analysis of the data, the Director may then approve or disapprove the subject excess spoil provisions.

(2) At any time during the trial period the Director may, at his discretion, place a moratorium on new permit applications which includes consideration of the subject excess spoil provisions.

(3) The State is required to continue to report to the OSM Birmingham Field Office annually on August 20, on the status of all permits and permit applications which includes consideration under the excess spoil provisions.

IV. Disposition of Comments

No comments were received in response to the notice of proposed rulemaking (55 FR 647-649) published on January 8, 1990. No public hearing was requested and none was held.

V. Director's Decision

Therefore, the Director has determined that the trial period for the disposal of excess spoil on abandoned mine sites shall be extended until January 1, 1991. The Federal rules at 30 CFR 901.15 are being amended to implement this action.

VI. Procedural Determinations

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Compliance With Executive Order No. 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 901

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 22, 1990.

Ronald C. Recker,
Acting Assistant Director, Eastern Field Operations.

For the reasons set forth in the preamble, title 30 chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 901—ALABAMA

1. The authority citation for part 901 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 901.15 is amended by revising paragraph (e) to read as follows:

§ 901.15 Approval of regulatory program amendments.

* * *

(e) The trial period for Alabama's excess spoil disposal plan is hereby extended from August 20, 1989, to January 1, 1991. * * *

* * *

[FR Doc. 90-15293 Filed 6-29-90; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 289

Availability of DoD Directives, DoD Instructions, DoD Publications, and Changes

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This document revises 32 CFR part 289 to update availability of DoD Directives, DoD Instructions, DoD Publications, and Changes.

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Bynum, Directives Division, Correspondence and Directives Directorate, Washington Headquarters Services, Washington, DC 20301-1155, telephone 202-697-4111.

SUPPLEMENTARY INFORMATION: On June 1, 1989, the Department of Defense published a revision (54 FR 23472) of 32 CFR part 289.

List of Subjects in 32 CFR Part 289

DoD Directives System issuances, Availability to the public, Freedom of Information.

Accordingly, 32 CFR part 289 is revised to read as follows:

PART 289—AVAILABILITY OF DOD DIRECTIVES, DOD INSTRUCTIONS, DOD PUBLICATIONS, AND CHANGES

Sec.

289.1 Ordering DoD Directives, DoD Instructions, and Changes.

289.2 Ordering DoD Publications.

Authority: 10 U.S.C. 133, 31 U.S.C. 483a.

§ 289.1 Ordering DoD Directives, DoD Instructions, and Changes.

DoD Directives, DoD Instructions, and changes published in part 1—Number Index section of DoD 5025.1-I, "DoD Directives System Annual Index" (except those issuances identified as classified) are available to the public and Government Agencies, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, telephone 703-487-4650.

§ 289.2 Ordering DoD Publications.

DoD publications and changes are available from the various sources that are identified in the Availability Column of the DoD Publications subsection of DoD 5025.1-I. A fee will be charged for DoD Publications ordered from the National Technical Information Service.

Dated: June 26, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 90-15295 Filed 6-29-90; 8:45 am]

BILLING CODE 3010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 4 and 146

[CGD 90-041]

OMB Control Numbers; Reporting and Recordkeeping Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule and confirmation of effective date.

SUMMARY: The Coast Guard is updating its regulations which display Control Numbers assigned by the Office of Management and Budget (OMB) for regulations in Title 33 CFR. Publication of OMB assigned Control Numbers is required by law and informs the public of those collection of information requirements that have been approved by the Director, OMB and assigned Control Numbers. Coast Guard is also confirming the effective date for §§ 146.140 and 146.210.

EFFECTIVE DATE: The effective date for §§ 146.140 and 146.210 and the amendments in this rule is July 2, 1990.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Don M. Wrye, (202) 267-1534.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) all regulations which contain recordkeeping or reporting requirements must be approved by the Director, OMB. Once approved, these regulations are assigned an OMB Control Number. OMB Control Numbers assigned for regulations within Title 33 CFR are displayed in a table appearing at 33 CFR 4.02. This document amends the table to include additional OMB Control Numbers assigned to certain regulations in title 33 CFR and makes minor corrections.

The Coast Guard did not publish a notice of proposed rulemaking for this final rule and is making this rule effective in less than 30 days after publication. This rule merely displays existing OMB Control Numbers pertaining to specific Coast Guard regulations for the public's information, and makes minor corrections to the table. Notes concerning later publication of OMB Control Numbers following 33 CFR 146.140 and 146.210 are being

removed since the relevant OMB Control Numbers are included in this rulemaking. Therefore, in accordance with 5 U.S.C. 553(b), the Coast Guard finds that notice and opportunity for comment are unnecessary. Since the OMB Control Numbers displayed have been previously assigned during rulemaking procedures for the regulations to which they relate, this rulemaking has no substantive effect. Therefore, the Coast Guard finds good cause to make this rule effective in less than 30 days after publication pursuant to 5 U.S.C. 553(d).

Drafting Information

This rule was drafted by Lieutenant Commander Don M. Wrye, Administrative Law Branch, Regulations and Administrative Law Division, Office of Chief Counsel.

Regulatory Evaluation

The Coast Guard considers this rule to be non-major under Executive Order 12291, and non-significant under the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rule merely displays existing OMB Control Numbers and makes technical corrections. No new substantive requirements are imposed. Since the impact of this rule is minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Federalism

The Coast Guard has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects

33 CFR Part 4

Reporting and recordkeeping requirements.

33 CFR Part 146

Continental shelf, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Vessels.

In consideration of the foregoing, parts 4 and 146 of chapter I, title 33, Code of Federal Regulations, are amended as follows:

PART 4—[AMENDED]

1. The authority citation for part 4 continues to read as follows:

Authority: 44 U.S.C. 3507; 49 CFR 1.45(a).

2. The table in § 4.02 is amended by removing the entries for §§ 154.740 (a)-(e) and 154.740(f) and adding new entries in sequential order to read as follows:

§ 4.02 Display.

33 CFR part or section where identified and described	Current OMB Control No.
Section 146.140.....	2115-0580
Section 146.210.....	2115-0580
Section 154.740.....	2115-0096, 0506
Section 154.804.....	2115-0581
Section 154.806.....	2115-0581
Section 155.750.....	2115-0120
Section 158.120.....	2115-0506
Section 156.170.....	2115-0086

PART 146—[AMENDED]

3. The authority citation for part 146 continues to read as follows:

Authority: 43 U.S.C. 1333(d)(1), 1348(c), 1358; 49 CFR 1.46.

4. The effective dates of §§ 146.140 and 146.210 are confirmed as July 2, 1990.

Dated: June 22, 1990.

R.B. Helsel,

Chief Counsel (Acting).

[FR Doc. 90-15270 Filed 6-29-90; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SC-022; FRL 3789-1]

Approval and Promulgation of Implementation Plans South Carolina: Miscellaneous SIP Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On March 16, 1989, the State of South Carolina submitted numerous miscellaneous revisions to its State Implementation Plan (SIP). These revisions became State effective on February 24, 1989. EPA is approving all

of the revisions except for the revisions to Regulation 62.5, Standards No. 5 (Volatile Organic Compounds), Regulation 62.1, Section II, Part B (Operating Permits) and Regulation 62.5, Standard No. 4, Section XI, Parts D, E, F, G and H (Compliance Schedules) and Section XII (Periodic Testing). The revision in Regulation 62.5, Standard No. 5 (Volatile Organic Compounds) will be acted upon in a separate notice. EPA is taking no action on the revisions to Regulation 62.1, Section II, Part B (Operating permit). EPA does not have regulations which specify the required content of an operating permit program, therefore, we cannot approve South Carolina's Regulation 62.1 as part of the SIP. Regulation 62.5, Standard No. 4 Section XI, Parts D, E, F, G, and H (Compliance Schedules) and XII, Part B (Periodic Testing) will be acted upon in a separate notice. The changes to this rule will be processed as 111(d) plan revisions.

DATES: This action will be effective August 31, 1990 unless notice is received by August 1, 1990 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to Beverly T. Hudson of EPA Region IV (address below). Copies of the material submitted by South Carolina may be examined during normal business hours at the following locations.

Environmental Protection Agency,
Region IV, Air Programs Branch, 345
Courtland Street, NE., Atlanta,
Georgia 30365.

South Carolina Department of Health
and Environmental Control, Bureau of
Air Quality Control, 2600 Bull Street,
Columbia, South Carolina 29201.

Public Information Reference Unit,
Environmental Protection Agency, 401
M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
Beverly T. Hudson of the Region IV Air
Programs Branch at the address given
above, telephone (404) 347-2864 or FTS
257-2864.

SUPPLEMENTARY INFORMATION: On
March 18, 1989, the South Carolina
Department of Health and
Environmental Control submitted to
EPA for approval revisions to the South
Carolina State Implementation Plan, and
EPA is today approving a number of
them.

These revisions were adopted by the
South Carolina Board of Health and
Environmental Control on October 15,
1987, and were forwarded to the State

Legislature for approval. The revisions
became State-effective on February 24,
1989. The submittal contained
certification that adoption of the
revisions was preceded by adequate
notice and public hearing. A discussion
of these revisions now follows:

- Regulation 62.1, Section I (Definitions) was amended by revising the definition of "Emission Data" which updated a reference to the Code of Federal Regulations and deleted a reference to Test Method 16 in the definition of "Total Reduced Sulfur."

- Regulation 62.1, Section II (Permit Requirements) was amended by adding and reorganizing the existing regulation. As before, the regulation contained two parts. The first part, part A, stipulated requirements for construction permits. part A was not amended. However, part B was amended with stipulated requirements for operating permits. EPA is taking no action on revisions to part B, since EPA does not recognize that these provisions are part of the South Carolina SIP. EPA does not have regulations which specify the requirements for an operating permit program, therefore, we cannot approve South Carolina's operating permit program as part of the SIP.

- Regulation 62.1, Section III (Emission Inventory) was amended to update the Code of Federal Regulations reference. The revisions also included inventory requirements which stated that "Every even calendar year a new updated emission inventory will be completed by the plant for the previous calendar year and submitted to the Department by March 31."

- Regulation 62.5, Standard No. 1 (Emissions from Fuel Burning Operations) was amended as follows: (1) Section I, Part D (Test Methods) was amended by adding a reference to Test Method 9 (40 CFR 60, Appendix A, as revised July 1, 1986), (2) Section IV, Subparagraph (A)(2) (Woodwaste Boiler) was amended to change the woodwaste boiler requirements for continuous monitors to 100×10^6 BTU/hr rated heat input and (3) Section IV, Part D (Equipment Performance Specification) was amended to add a revision date to the Code of Federal Regulations.

- Regulation 62.5, Standard No. 2 (Ambient Air Quality Standards) was amended by updating the American Society for Testing and Materials (ASTM) reference numbers.

- Regulation 62.5, Standard No. 4 (Emissions from Process Industries) was amended to include a number of minor revisions. A sample of the most

significant changes is as follows: (1) Section IX made visible emissions (not specified elsewhere) applicable to all sections, not just Section VIII, (2) Section XI, Part B changed the smelt dissolving tank emission limit (due to Federal change), (3) Section XI, Part D (Monitoring, Recordkeeping, and Reporting) added the word "calibrate" instead of "install" to Subparagraph (D)(1)(a) and deleted the date for continuous emission monitor installation. Subparagraph D(3) added flexibility for excess emission reporting which stated that "each owner or operator required to install a continuous monitoring system shall submit a written report of excess emissions to the department for every calendar quarter unless specified on a more frequent cycle by the Department".

Subparagraph D(4) clarified the description of excess emission by amending the paragraph to read "the number of 12 hour exceedances from recovery furnaces is greater than 1% of the total number of continuous 12 hour periods in a quarter (excluding periods of startup, shutdown, or malfunctions and periods when the recovery furnace is not operating)." (4) Section XI, (Compliance Schedules), Parts D, E, F, G, and H deleted the compliance schedules for Total Reduced Sulfur (TRS) since all dates were past. (5) Section XII (Periodic Testing) added a new paragraph (B) for TRS. This was amended because of the deletions of the "Compliance Testing".

Sections I thru VIII, effective April 22, 1988, are also incorporated by reference to reflect that they are part of the current state effective regulations.

The changes to Section XI (Compliance Schedules) and Section XII (Periodic Testing) will be processed as 111(d) plan revisions.

Regulation 62.5, Standard No. 5 (Volatile Organic Compound) was revised to provide clarity within the regulations. These revisions will be acted upon in a separate notice.

Regulation 62.5 Standard No. 7 (Prevention of Significant Deterioration) was amended as follows: (1) Section 1, Part I, was amended to add a revision date to the Code of Federal Regulations. Part I is the definition of "Best Available Control Technology" which now reads "An emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutants * * * which would exceed the emissions allowed by an applicable standard under the Federal New Source Performance

Standards or National Emission Standard for Hazardous Air Pollutants (under 40 CFR part 60 and 61 as amended July 1, 1988); (2) Section 1, Subparagraph B (1)(a) was amended to conform to the intent of the Federal Prevention of Significant Deterioration regulations.

Final Action

EPA is approving the regulatory changes which were submitted on March 16, 1989, as detailed in this notice. EPA is taking no action on revisions to Regulation 62.1, Section II B (Operating Permit) since EPA does not recognize this section is part of the SIP. The revisions in Regulation 62.5, standard No. 4, Section XI (Compliance Schedules) and Section XII (Periodic Testing) will be processed as 111(d) plan revisions. The revisions in Regulation 62.5, Standard No. 5 (Volatile Organic Compounds) will be acted upon in a separate notice.

The public is advised that this action will be effective 60 days from today. However, if notice is received within 30 days that someone wishes to make adverse or critical comments, this action will be withdrawn and two subsequent notices will be published prior to the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposed action and establishing a comment period.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the *Federal Register* on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for a revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of appeals for the appropriate circuit by August 31, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air Pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Sulfur oxides.

Authority: 42 U.S.C. 7401-7642.

Note: Incorporation by reference of the State Implementation Plan for the State of South Carolina was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 24, 1989.

Joe R. Franzmathes,
Acting Regional Administrator.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart PP—South Carolina

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.2120 is amended by adding paragraph (c)(33) to read as follows:

§52.2120 Identification of plan.

(c) . . .
(33) Changes in South Carolina's SIP submitted to EPA on March 16, 1989, by the South Carolina Department of Health and Environmental Control.

(i) Incorporation by reference.

(A) Regulation 62.5 Standard No. 4. Sections I thru VIII and Tables A and B effective April 22, 1989.

(B) Changes in South Carolina's Regulations which were effective March 24, 1989:

1. Regulation 62.1: Section I Definitions. 9 and 38 and Section III Emission Inventory.

2. Regulation 62.5, Standard No. 1 Emissions from Fuel Burning Operations: Section I, Part D; Section IV, Paragraph A.2.a. and Part D.

3. Regulation 62.5, Standard No. 2 Ambient Air Quality Standards: Introductory paragraph.

4. Regulation 62.5, Standard No. 4 Emissions from Process Industries: Section IX and X.

5. Regulation 62.5, Standard No. 7 Prevention of Significant Deterioration: Section 1 B(1)(a) and Part I.

(ii) Additional Material

(A) March 16, 1989, letter from South Carolina Department of Health and Environmental Control.

[FR Doc. 90-15203 Filed 6-29-90; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 259

[SW-FRL-3792-7]

Standards for the Tracking and Management of Medical Waste; Technical Corrections

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule; correction.

SUMMARY: This document clarifies and corrects typographical and other errors in the Interim Final Rule that appeared in the *Federal Register* on Friday, March 24, 1989, (54 FR 12326). This notice also provides specific addresses within each Covered State where the notification(s) and reports required under this program are to be submitted. EPA is republishing the Appendices to part 259, containing today's revisions. Without taking this measure, the revised Appendices would not be available to the regulated community until Autumn 1990 which is shortly before the end of the demonstration program in mid-1991. Reproduction of the Appendices is solely for the purposes of aiding the regulated community.

EFFECTIVE DATE: These revisions will be effective October 1, 1990.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline toll free at (800) 424-9348 (in Washington, DC, call (202) 382-3000). For information on specific aspects of today's rulemaking, contact Mary Greene, Office of Solid Waste (OS-332), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-7736.

SUPPLEMENTARY INFORMATION:

I. Background

On March 24, 1989, EPA promulgated an Interim Final Rule establishing standards for the tracking and management of medical waste under the Resource Conservation and Recovery Act (RCRA). See 54 FR 12326-12395, March 24, 1989. EPA has since identified several regulatory provisions at 40 CFR part 259 that require correction and/or clarification. Many of these changes are grammatical and punctuation corrections, however, additional minor corrections are made to the text in part 259 to make the regulations consistent with the description of the tracking and management system in the preamble to the rule (54 FR 12326-12371). Today's notice also clarifies the duration of the program in the demonstration states. These changes and clarifications are discussed below.

A. Program Duration

The part 259 regulations were published March 24, 1989, and became effective June 22, 1989, in New York, New Jersey and Connecticut, and July 24, 1989, in Rhode Island and Puerto Rico. Because the statute provides a limited duration for this program and because the rules became effective at different times in different states, there has been some confusion over the precise time period during which the rules are effective. Today's notice amends the regulations to establish the dates of duration for the States participating in the demonstration program.

B. Definitions

There are several changes to the definitions found at § 259.10(b) which help to clarify and make the regulations more consistent with the preamble discussion and background documents. Body fluids, as defined in § 259.10(b), are liquids emanating or derived from humans and are limited to: blood; cerebrospinal, synovial, pleural, peritoneal, and pericardial fluids; semen and vaginal secretions. The rule promulgated on March 24, 1989, did not contain certain additional fluids which were included in the "Background Document for Listing Medical Waste." Amniotic fluid was included in the Background Document as an example of Class 2 wastes (Pathological Wastes) subject to the part 259 regulations. However, EPA did not include amniotic fluid as a "body fluid" subject to regulation as a Class 2 waste under § 259.30(a). Thus, EPA is revising the definition of "body fluids" in § 259.10(b) to specifically include amniotic fluid. Documentation for this correction has been placed in the public docket for this rulemaking.

EPA also notes that dialysate was included in the "Background Document for Listing Medical Waste" as an example of Class 3 wastes, Human Blood and Blood Products. After reviewing information provided by the State of Connecticut (letter dated July 18, 1989) and the Centers for Disease Control (letter dated July 11, 1989), EPA concludes that dialysate should be included in the list of body fluids subject to regulation as a Class 2 waste (Pathological Waste) rather than Class 3 (Human Blood and Blood Products). Dialysate is a fluid with a chemical makeup similar to human plasma. It is designed to carry away metabolic waste materials and to achieve electrolyte and water balance with the blood of an individual whose kidneys are not functioning properly. Dialysis is

achieved by introducing the dialysate fluid to one side of a semipermeable membrane (or filter) and passing blood on the other side. Solutes move from the blood to the dialysate. Therefore, the dialysate is a fluid derived from humans. Thus, EPA is revising the definition of "body fluid" in § 259.10(b) to include dialysate. However, the semipermeable membrane (or filter) and tubing used to pass the blood from the patient for dialysis remain subject to regulation under Class 3 (Human Blood and Blood Products) when they are saturated with blood. Documentation for this correction has been placed in the public docket for this rulemaking.

Additionally, § 259.10 defines various terms used throughout the rule. After reviewing many of the questions received on the packaging standards, EPA determined it was necessary to add several terms and redefine other terms to clarify some of these issues. The confusion centered on the use of the terms "packaging" and "container" interchangeably and uncertainty as to whether EPA was referring to the entire package of medical waste or to the individual boxes and/or plastic bags that are used to satisfy the overall standard. EPA interprets the term "packaging" as used in part 259 to mean the combination of boxes and/or plastic bags that are used to meet the packaging standards (rigid, leak-resistant, impervious to moisture, resistant to tearing or bursting, and sealing to prevent leakage). The term "container" means the individual boxes and/or plastic bags that are used to contain the regulated medical waste. Therefore, in § 259.10, EPA is adding the terms "package", "packaging", and "container" to clarify the packaging, labeling, and marking requirements. Additionally, the definition of "destroyed regulated medical waste" is being revised; confusion in regard to the intent of the destruction criteria has prompted this clarification. The intent of the destruction criteria was to ensure the physical change of these wastes, thereby reducing aesthetic concerns as well as some of the physical hazards associated with these wastes. The definition of "destroyed regulated medical waste" has been revised to clarify the performance standards for the destruction methods used to physically alter waste components.

C. Pre-transport Requirements

Minor corrections to the pre-transport requirements found in subpart E are intended to clarify the regulations for segregation, packaging, decontamination, labeling and marking. These changes will make the text more

consistent with the new definitions found in § 259.10(b) which are discussed above.

EPA is also clarifying the segregation requirement. Section 259.40 establishes standards for the segregation of regulated medical waste, to the extent feasible, from other solid waste and from hazardous and radioactive waste. The Agency recognizes that it is not always possible to segregate regulated medical waste from all other types of solid waste. Therefore, when segregation is not possible, the "mixture rule," stated at § 259.31(a), applies. Under the mixture rule, generators, when unable to segregate regulated medical waste from other solid waste (except hazardous and radioactive waste), must package, label, and mark the packaging and its contents according to the part 259 regulations. When regulated medical waste is mixed with hazardous waste, the hazardous waste regulations (subtitle C part 260) apply unless the waste is exempt from manifesting (e.g., when generated by a small quantity generator); then the part 259 regulations apply. However, when regulated medical waste is mixed with radioactive waste, both sets of regulations apply. (See 54 FR 12362-12363 for a more detailed discussion of the radioactive medical waste mixture handling procedures.) EPA has revised § 259.40 slightly to clarify the application of the mixture rule to pre-transport segregation requirements.

D. Generator Standards and On-Site Incinerator Reporting

EPA is also clarifying the generator recordkeeping requirements for tracking forms and on-site incineration reports. In § 259.54(a)(1)(i), the regulation requires generators to keep a copy of each tracking form signed in accordance with § 259.52 for at least three (3) years from the date the waste was accepted by the initial transporter. Although not specifically stated in § 259.54(a)(1)(i), EPA intended that generators also retain a copy of the returned tracking form with the destination facility owner or operator's signature, as noted in § 259.52(c), or a copy of the exception report, as noted in § 259.54(a)(1)(ii). These requirements were also described in the preamble to the rule. See 54 FR 12351 and 12352. In order to clarify the Agency's intent, EPA has revised the recordkeeping requirements in § 254.54(a)(1)(ii) to specifically require generators to maintain a copy of each original tracking form they have initiated and signed, and a copy of the returned tracking form with the destination facility owner or operator's

signature. EPA has also revised paragraph (a)(1)(ii) to specify that exception reports must also be kept for a period of three (3) years from the date the exception report was submitted.

The Agency has revised § 259.61(a) to state that generators must maintain their on-site incinerator quantity records by weight, and not volume. This correction is necessary to make the rule consistent with the on-site incinerator report form in Appendix II, and the preamble discussion at 54 FR 12352.

E. Transporter Requirements

Subpart H regulations for transporters of regulated medical waste have been corrected to ensure consistency with other sections of the rule and preamble. Section 259.70(c) discusses the applicability of the generator regulations (subpart F) to transporters of regulated medical waste. Under this section, the rule originally stated that transporters must comply with the generator requirements when they consolidate two or more shipments of regulated medical waste onto a single form. This section did not, however, specify whether transporters who accept waste from generators who generate less than 50 pounds in a calendar month and use logs must initiate a tracking form for the waste they accept; rather this was required under § 259.76(a) (labeled "consolidating and remanifesting waste to a new tracking form"). This requirement was also explained in the preamble at 54 FR 12355. To clarify the applicability of the manifest requirements for transporters of waste from small quantity generators, § 259.70(c) has been revised to state that transporters must meet all of the requirements for generators under subpart F when: (1) They consolidate two or more shipments of regulated medical waste onto a single form or (2) they initiate a tracking form for waste received from generators of less than 50 pounds. These requirements include, in addition to initiation of a tracking form, submission and retention of exception reports, as necessary, and the requirement to obtain the tracking form.

Under § 259.72, each transporter who intends to transport regulated medical waste that was generated in a Covered State must notify EPA regardless of whether the transport occurs in a Covered or Non-Covered State. EPA will issue a unique medical waste identification number to each transporter, as described in § 259.72(c). The regulation originally provided for the issuance of a separate EPA Medical Waste Identification Number for each Covered State. However, EPA has subsequently decided to utilize the

existing Agency-wide Facility Identification Tracking system which identifies all the environmental activities at that location. This system does not allow for more than one identification number to be assigned to a facility at a single location. Therefore, one number will be issued to each transporter for his activities in all Covered States.

EPA realizes that it was not possible for all transporters to know whether or not they would be transporting regulated medical waste during the demonstration program. Therefore, EPA is clarifying that transporters may submit notifications throughout the demonstration program. If the transporter submits the notification by certified mail, return receipt requested, the return receipt can serve as evidence that the transporter has submitted his notification until the transporter receives his EPA Identification Number for transporting medical waste.

In § 259.73(a), the regulation is revised such that transporters are required to ensure that regulated medical waste does not become putrescent during transport. This requirement was discussed in the preamble at 54 FR 12354 and was inadvertently omitted from the regulation.

Also in § 259.73, paragraph (b) is revised to clarify that the phrase "INFECTIOUS WASTE" may be used in the vehicle markings, as explained at 54 FR 12354.

Section 259.74(e) of the rule establishes the requirements transporters must follow when delivering regulated medical waste outside of the United States. The rule promulgated on March 24, 1989, was not consistent with the preamble language at 54 FR 12351 describing procedures for documenting shipments of regulated medical waste delivered outside of the United States. EPA believes that the procedures outlined in the preamble will provide generators with a greater level of assurance that their waste was received by the designated destination facility. Therefore, EPA has revised § 259.74(e)(1) of the rule to require transporters to obtain the signature of the representative of the foreign transporter or destination facility to which they deliver the waste, or (if those foreign transporters or destination facilities choose not to sign), to verify that the waste has been delivered. The last domestic transporter may verify delivery by signing their name in Box 14 of the tracking form, along with a statement that the waste has been given to the next (foreign) transporter or waste handler.

In § 259.77(c)(2), the regulation is revised so that transporters are required to retain copies of all consolidation logs required by § 259.76(c)(4), for a period of three years. This requirement was discussed in the preamble discussion of recordkeeping requirements at 54 FR 12356 and was inadvertently omitted from the rule.

F. Intermediate Handler

In § 259.81(b)(1), the regulation is revised to require intermediate handlers to note discrepancies on the tracking form. This requirement was discussed in the preamble at 54 FR 12358 and 12359 but was inadvertently omitted from the rule.

G. Changes to Appendices I, II, and III

Several corrections have been made to Appendices I, II and III, to ensure consistency. The format of the Medical Waste Tracking Form, as presented in Appendix I of the March 24, 1989, Federal Register notice, has been modified to improve its ease of use; content and information requirements, however, have not been changed. Highlighting has been added to the form's section headings to set the different sections apart from one another. This was done to guide the user to complete the appropriate section(s) of the form (i.e., Generator, Transporter, or Destination Facility sections). Boxes 4, 7, 10, 11c and 19 have been lightly shaded to indicate that they must be completed only if required by the State that issued the form. Additional space has been added in Box 15, "Generator's Certification," to enable the generator to insert his full name within the certification statement. Further, Blocks 17 through 19 have been enlarged to provide more space for inclusion of Transporter 2 or Intermediate Handler identification information. The version published in today's Federal Register is identical to the version EPA has been distributing since June 1989. There are minor corrections to the instructions for the tracking form; changes are in column 1, line 35 of the version published at 54 FR 12384 and in the instructions for Boxes 5 and 14.

In the On-site Medical Waste Incinerator Report Form, as presented in Appendix II, Box 9 contains the owner's certification of accuracy and completeness. Both the regulation at § 259.62(b) and the instructions for completing Box 9 (at 54 FR 12388) specify that the certification statement in Box 9 must be signed by the facility owner or an authorized representative. Box 9 of the form is revised so that the word "signature" appears instead of the

word "name." Minor corrections have been made in the instructions for completing the form, under the heading "When to Complete this Form?"

In the Medical Waste Transporter Report Form, as presented in Appendix III, originally published at 54 FR 12389-12391, two minor changes have been made. Box 1, which contains check-off boxes to identify the reporting period, is revised to include a space for transporters to specify the Covered State for which they are reporting; the instructions for the form (originally published at 54 FR 12392-12393) are revised to reflect this change. In addition, Box 11 of the form is revised to include the phrase "Please Complete Sections A, B, and C for each facility," which is consistent with the regulation in § 259.78(c)(1)(vi) and the instructions for Box 11 originally published at 54 FR 12393. In addition, the instructions for completing the report have been revised in several places so that the term "Medical Waste Transporter Report Form" appears instead of the term "Transporter Report Form." In the instructions, corrections are made to identify the Covered State agencies to which copies of the report must be sent, and to explain the July 24, 1989 to December 19, 1989, first reporting period for wastes generated in Puerto Rico and Rhode Island. Minor grammatical corrections are made in "When to Complete the Report?", in the first paragraph under "Section I. Transporter Identification Information," and in the title "Section IV. Intermediate Handlers and Destination Facilities." Finally, in the instructions for Box 11B, "Type of Facility," Code #3 is revised to read "Treatment Facility," and the instructions for Box 11C are revised to read ". . . enter the quantity of waste (in pounds) that you delivered to the intermediate handler or destination facility during the reporting period."

The Recommended Medical Waste Transporter Notification Form and Instructions, originally published at 54 FR 12394, is revised so that the Covered State waste management agencies' addresses appear in the instructions.

II. Compliance With Administrative Procedure Act Requirements

Section 553(b) of the Administrative Procedure Act generally requires proposal of administrative rulemaking to receive public comment prior to promulgation. However, section 553(b) excludes certain types of rules from the prior notice-and-comment requirement, including interpretative rules and rules for which public comment is unnecessary. Because today's notice includes only interpretive statements

concerning existing medical waste requirements and minor technical corrections, prior notice and solicitation of public comment on this notice is unnecessary.

Dated: June 25, 1990.

Mary A. Gade,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR part 259 is amended as follows:

PART 259—STANDARDS FOR THE TRACKING AND MANAGEMENT OF MEDICAL WASTE AND APPENDICES

1. The authority citation for part 259 continues to read as follows:

Authority: These regulations are issued under the authority of sections 2002, 11001, 11002, 11003, 11004, 11005, 11010, and 11011 of the Solid Waste Disposal Act of 1970, as amended by the Medical Waste Tracking Act of 1988, 42 U.S.C. 6962 et seq.

2. Section 259.2 is amended by revising paragraph (a) to read as follows:

§ 259.2 Effective dates and duration of the demonstration program.

(a) Except for records and reports required to be maintained or submitted under this part, the demonstration program will be effective for the period June 22, 1989, to June 22, 1991, in the Covered States of Connecticut, New Jersey, and New York. The demonstration program will be effective for the period of July 24, 1989, to June 22, 1991, in the State of Rhode Island and the Commonwealth of Puerto Rico.

3. Section 259.10 is amended by revising paragraph (b) with the following definitions in alphabetical order:

§ 259.10 Definitions.

Body fluids means liquid emanating or derived from humans and limited to blood; dialysate; amniotic, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids; and semen and vaginal secretions.

Destroyed regulated medical waste means regulated medical waste that is no longer generally recognizable as medical waste because the waste has been ruined, torn apart, or mutilated (it does not mean compaction) through:

(1) Processes such as thermal treatment or melting, during which treatment and destruction could occur; or

(2) Processes such as shredding, grinding, tearing, or breaking, during

which only destruction would take place.

4. Section 259.10 is amended by adding to paragraph (b) the following definitions in alphabetical order:

§ 259.10 Definitions.

Container means any portable device in which a regulated medical waste is stored, transported, disposed or otherwise handled. The term container as used in this part does not include items in the Table or Regulated Medical Waste at § 259.30(a) of this part.

Package means the packaging/containers and its contents.

Packaging means the assembly of one or more containers and any other components necessary to assure minimum compliance with § 259.41 of this part.

5. Section 259.40 is amended by revising Paragraph (b) to read as follows:

§ 259.40 Segregation Requirements.

(b) If other waste is placed in the same container(s) as regulated medical waste, or if regulated medical waste cannot be segregated from other waste, the generator must package, label, and mark the container(s) and its entire contents according to the requirements in §§ 259.41, 259.44, and 259.45 of this part.

6. Section 259.41 is amended by revising the first sentence and paragraphs (a)(4) and (b) to read as follows:

§ 259.41 Packaging Requirements.

Generators must ensure that all packages of regulated medical wastes meet the following requirements before transporting or offering for transport such waste off-site.

(a) . . .

(4) Sufficiently strong to prevent tearing or bursting under normal conditions of use and handling; and . . .

(b)(1) In addition to the requirements of paragraph (a) of this section, generators must package sharps and sharps with residual fluids in packaging/containers that are puncture resistant.

(b)(2) In addition to the requirements of paragraph (a) of this section, generators must package fluids (quantities greater than 20 cubic centimeters) in packaging/containers

that are break-resistant and tightly lidded or stoppered.

7. Section 259.43 is amended by revising paragraphs (a) and (b) to read as follows:

§ 259.43 Decontamination standards for reusable containers.

(a) All non-rigid containers and inner liners must be managed as regulated medical waste under this part and must not be reused.

(b) Any rigid container used for the storage and/or transport of regulated medical waste and designated for reuse once emptied, must be decontaminated if the container shows signs of visible contamination.

8. Section 259.44 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 259.44 Labeling requirements.

Generators must label each individual container used to meet the packaging requirements under § 259.41 of this Subpart before transporting or offering for transport off-site:

(a) *Untreated regulated medical waste.* Each container of untreated regulated medical wastes must have a water-resistant label affixed to or printed on the outside of the container. The label must include the words "Medical Waste," or "Infectious Waste," or display the universal biohazard symbol. When a red plastic bag(s) is used as an inner container, it need not display a label.

9. Section 259.45 is amended by revising the introductory text and paragraph (a) introductory text to read as follows:

§ 259.45 Marking (Identification) requirements.

Generators (including intermediate handlers) must mark each individual container of regulated medical waste according to the following marking requirements before the waste is transported or offered for transport off-site:

(a) The outer-most surface of the outer container must be marked with a water-resistant identification tag of sufficient dimension to contain the following information:

10. Section 259.50 is amended by revising paragraphs (e) and (f).

§ 259.50 Applicability and general requirements.

(e) * * *

(1) *Generators of 50 pounds or more per month.* Generators who generate and transport or offer for transport off-site 50 pounds or more of regulated medical waste in a calendar month are subject to the requirements of subpart E and all of the applicable requirements of this subpart for each shipment of regulated medical waste.

(2) *Generators of less than 50 pounds per month.*

(i) Generators who generate and transport or offer for transport off-site less than 50 pounds of regulated medical waste in a calendar month are subject only to the requirements of subpart E of this part and §§ 259.50, 259.53, 259.54 (b) and (c), and 259.56 of this part, unless exempt under § 259.51.

(ii) Generators who generate less than 50 pounds of regulated medical waste in a calendar month but who transport or offer for transport off-site more than 50 pounds in any one shipment or in any one calendar month are subject to subpart E of this part and §§ 259.50, 259.52, 259.53, 259.54 (a) and (c), 259.55, and 259.56 of this part, unless exempt under § 259.51(b).

(f) Generators of regulated medical waste must use transporters who have notified EPA under § 259.72 of this part to transport their regulated medical waste, except as provided in § 259.51 of this subpart.

11. Section 259.51 is amended by revising paragraphs (a) and (b) introductory text, removing paragraph (b)(2) and redesignating paragraphs (b)(3) and (b)(4) as (b)(2) and (b)(3), respectively, to read as follows:

§ 259.51 Exemptions.

(a) *Generators of less than 50 pounds per month.* Generators who meet the conditions of § 259.50(e)(i) of this subpart are exempt from the requirement to use a transporter which has notified EPA, exempt from the requirement to use the tracking form, and exempt from the requirements of subpart H of this part, except from the exception reporting requirements of § 259.55 of this part, provided that the following conditions are met:

(b) *Shipments between generator's facilities.* Generators are exempt from the requirement to use a transporter who has notified EPA, exempt from the use of the tracking form, and exempt from the requirements of subpart H of this part when transporting regulated medical waste from the original generation point to a central collection point or a treatment facility owned or

operated by the generator, provided they meet all of the following conditions:

12. Section 259.52 is amended by revising paragraphs (b)(2) and (d)(3) as follows:

§ 259.52 Use of the tracking form.

(b) * * *

(2) For all other generators, the tracking form from the State in which the waste was generated; or

(d) * * *

(3) Retain one copy, in accordance with § 259.54(a)(1)(i) of this part.

13. Section 259.53 is amended by revising the first sentence.

§ 259.53 Generators exporting regulated medical waste.

Generators (including transporters and intermediate handlers that initiate tracking forms) who export regulated medical waste to a foreign country (e.g., Canada) for treatment, destruction, or disposal, must request that the destination facility provide written confirmation that the waste was received. * * *

14. Section 259.54 is amended by revising paragraph (a)(1) to read as follows:

§ 259.54 Recordkeeping.

(a) * * *

(1)(i) Keep a copy of each tracking form signed in accordance with § 259.52 of this part and a signed copy of each completed tracking form signed by the owner or operator of the destination facility in accordance with § 259.81(a)(4) of this part, for at least three (3) years from the date the waste was accepted by the initial transporter; and

(ii) Retain a copy of all exception reports required to be submitted under § 259.55(c) of this subpart for at least three (3) years from when the exception report was submitted.

15. Section 259.55 is amended by revising paragraph (a) to read as follows:

§ 259.55 Exception Reporting.

(a) A generator who meets the conditions of § 259.50 (e)(1) or (e)(2)(ii) of this subpart, or who utilizes a Medical Waste Tracking form, must contact the owner or operator of the destination facility, transporter(s), and intermediate handler(s), as appropriate, to determine the status of any tracked waste if he does not receive a copy of the completed tracking form with the

handwritten signature of the owner or operator of the destination facility within 35 days of the date the waste was accepted by the initial transporter.

16. Section 259.61 is amended by revising paragraphs (a)(1) (iii) and (iv) to read as follows:

§ 259.61 Recordkeeping.

(a) * * *

(iii) The total weight of medical waste incinerated, per incineration cycle; and

(iv) An estimate of the weight of regulated medical waste incinerated, per incineration cycle.

17. Section 259.70 is amended by revising paragraph (c) to read as follows:

§ 259.70 Applicability.

(c) A transporter of regulated medical waste must meet all the requirements for generators under subpart F of this part when he consolidates two or more shipments of regulated medical waste onto a single tracking form or when he initiates a tracking form for medical waste received from generators who met the conditions of § 259.50(e)(2)(i).

18. Section 259.72 is amended by revising paragraph (c) to read as follows:

§ 259.72 Transporter notifications.

(c) EPA will issue transporters, who notify under this section, a unique EPA Medical Waste Identification Number. This identification number will apply to all transporter sites identified in paragraph (b)(2) of this section, that relate to each Covered State. Transporters may accept regulated medical waste after notifying under this section. Upon receipt of an EPA Medical Waste Identification Number, the transporter must make certain that the number has been entered in Box 5 of the Medical Waste Tracking Form (Appendix I of this part) that accompanies each shipment they handle.

19. Section 259.73 is amended by revising paragraphs (a)(2) and (b)(3) to read as follows:

§ 259.73 Vehicle requirements.

(a) * * *

(2) The transporter must ensure that the waste does not become putrescent and is not subject to mechanical stress or compaction during loading and unloading or during transit;

(b) * * *

(3) A sign or the flowing words imprinted:

- (i) MEDICAL WASTE; OR
- (ii) INFECTIOUS WASTE.

20. Section 259.74 is amended by revising paragraph (d)(1), redesignating paragraphs (e)(1) through (e)(3) as (e)(2) through (e)(4), respectively, and adding a new paragraph (e)(1) and revising newly redesignated (e)(2), to read as follows:

§ 259.74 Tracking form requirements.

(d) * * *

(1) Obtain the date of delivery and the handwritten signature of the transporter, intermediate handling facility or destination facility on the tracking form;

(e) * * *

(1) Obtain the signature of the accepting foreign transporter or destination facility; or

(2) Verify that the waste has been delivered to the next (foreign) transporter, or treatment, destruction or destination facility by writing a statement to that effect in Box 14, certifying that the entire shipment (as specified in Boxes 11, 12 and 13 of the tracking form) has been delivered to the next (foreign) party, including the accepting party's name, company name, and mailing address, and signing directly below that certification statement;

21. Section 259.76 is amended by revising paragraph (c)(1) to read as follows:

§ 259.76 Consolidating or remanifesting waste to a new tracking form.

(c) * * *

(1) Attach a copy of the tracking form signed by the destination facility to the generator's original tracking form;

22. Section 259.77 is amended by revising paragraphs (c)(2) and (d) to read as follows:

§ 259.77 Recordkeeping.

(c) * * *

(2) Retain a copy of the transporter-initiated tracking form signed by the intermediate handler or destination facility and all associated consolidation logs for three (3) years from the date the waste was accepted by the intermediate handler or destination facility.

(d) Transporters must retain a copy of each transporter report required by

§ 259.78 of this subpart for three (3) years after the date of submission.

23. Section 259.78 is amended by revising paragraphs (b)(2) and (c)(1)(i) to read as follows:

§ 259.78 Reporting.

(b) * * *

(2) A second copy must be submitted to the Director of the waste management agency in the Covered State for which the transporter has compiled the report.

(c)(1) * * *

(i) The transporter's name, address, and EPA medical waste identification number;

24. Section 259.80 is amended by revising paragraph (b)(2) to read as follows:

§ 259.80 Applicability.

(b) * * *

(2) This subpart applies to generators who receive regulated medical waste required to be accompanied by a tracking form.

25. Section 259.81 is amended by revising paragraphs (b)(1), (b)(2)(iii) and (b)(3)(i) to read as follows:

§ 259.81 Use of the tracking form.

(b) * * *

(1) The owner or operator must meet all the requirements for generators under both subparts E and F of this part including signing the tracking form accepting the waste as specified in Box 20, noting any discrepancies on the tracking form, and entering the new tracking form number in Box 21 when initiating a new tracking form for each shipment of regulated medical waste that has either been treated or destroyed.

(2) * * *

(iii) The date the regulated medical waste was originally shipped by the generator or the generator's unique tracking form number; and * * *

(3) * * *

(i) Attach a copy of the tracking form signed by the destination facility to the original tracking form initiated by the generator identified in paragraph (b)(2)(i) of this section.

26. Section 259.83 is amended by revising paragraph (b) introductory text to read as follows:

§ 259.83 Recordkeeping.

(b) The owner or operator of a destination facility or an intermediate

handler that accepts regulated medical waste from generator(s) subject to § 259.51 (a) or (c) of this part must maintain the following information for each shipment of regulated medical waste accepted:

27. Appendix I to part 259 and General Instruction are amended by adding the

new waste tracking form, and revising the instructions for Box 5 and Box 14. Appendix I is revised to read as set forth below.

28. Appendix II to part 259 is revised to read as set forth below.

29. Appendix III is amended by removing Parts I and II and inserting the new form, removing Part IV and

inserting the new form, and revising the instructions in Box 1. Appendix III is revised to read as set forth below.

30. Appendix IV to part 259 is revised to read as set forth below.

Appendix I to Part 259—Medical Waste Tracking Form and Instructions

BILLING CODE 6560-50-M

MEDICAL WASTE TRACKING FORM			
1. Generator's Name and Mailing Address		2. Tracking Form Number	
3. Telephone Number ()		4. State Permit or ID No.	
5. Transporter's Name and Mailing Address		6. Telephone Number ()	
EPA Med. Waste ID No.		7. State Transporter Permit or ID No.	
8. Destination Facility Name and Address		9. Telephone Number ()	
10. State Permit or ID No.		13. Total Weight or Volume	
11. US EPA Waste Description		12. Total No. Containers	
a. Regulated Medical Waste (Untreated)			
b. Regulated Medical Waste (Treated)			
c. State Regulated Medical Waste			
14. Special Handling Instructions and Additional Information			
15. Generator's Certification: Under penalty of criminal and civil prosecution for the making or submission of false statements, representations, or omissions, I declare, on behalf of the generator _____ that the contents of this consignment are fully and accurately described above and are classified, packaged, marked, and labeled in accordance with all applicable State and Federal laws and regulations, and that I have been authorized, in writing, to make such declarations by the person in charge of the generator's operation.			
Printed Typed Name		Signature	
		Date	

INSTRUCTIONS FOR COMPLETING MEDICAL WASTE TRACKING FORM			
Copy 1 — GENERATOR COPY: Mailed by Destination Facility to Generator			
Copy 2 — DESTINATION FACILITY COPY: Retained by Destination Facility			
Copy 3 — TRANSPORTER COPY: Retained by Transporter			
Copy 4 — GENERATOR COPY: Retained by Generator			
As required under 40 CFR Part 259:			
1. This multicopy (4-page) shipping document must accompany each shipment of regulated medical waste generated in a Covered State.			
2. Items numbered 1-14 must be completed before the generator can sign the certification. Items 4, 7, 10, 11c, & 19 are optional unless required by the State. Item 22 must be completed by the destination facility.			
For assistance in completing this form, contact your nearest State office or Regional EPA office, or call (800) 424-9346.			
15. Transporter 1 (Certification of Receipt of Medical Waste as described in items 11, 12, & 13)			
Printed Typed Name	Signature	Date	
17. Transporter 2 or Intermediate Handler (name and address)	18. Telephone Number ()		
EPA Med. Waste ID No.	19. State Transporter Permit or ID No.		
20. Transporter 2 or Intermediate Handler (Certification of Receipt of Medical Waste as described in items 11, 12, & 13)			
Printed Typed Name	Signature	Date	
21. New Tracking Form Number (for consolidated or remanifested waste)			
22. Destination Facility (Certification of Receipt of Medical Waste as described in items 11, 12, & 13)			
<input type="checkbox"/> Received in accordance with items 11, 12, & 13			
Printed Typed Name	Signature	Date	
(If other than destination facility, indicate address, phone, and permit or ID no. in box 14.)			
23. Discrepancy Box (Any discrepancies should be noted by item number and initials)			

Instructions for Completing the Medical Waste Tracking Form

General Instructions

Read all instructions before completing this form.

This form has been designed for use on a 12-pitch elite typewriter; a firm ballpoint pen may also be used—press down hard (as you are writing through multiple copies).

Federal regulations require generators, transporters, intermediate handlers, and owners and operations of destination facilities (treatment, destruction facilities, and disposal facilities) to use this form for both inter- and intrastate transportation of regulated medical waste which is generated in a Covered State. Generators must obtain the Medical Waste Tracking Form from the following sources:

(1) If the regulated medical waste is to be shipped to a Covered State for treatment, destruction, or disposal, then the generator must use that Covered State's form. For generators who transport or offer for transport regulated medical waste to another Covered State which requires use of its version of the tracking form, the transporter must provide the generator with the receiving Covered State's form.

(2) If the receiving Covered State does not require the use of its version of the form, or the receiving State is a non-Covered State, then the generator must obtain the form from the generator's own State.

(3) If the generator's State does not require the use of that State's version of the tracking form, then the generator may obtain copies from other sources or produce them using the printed version of the Federal form provided in this appendix.

Section 11007 of the Medical Waste Tracking Act specifies that any State or local law which requires submission of a regulated medical waste tracking form from any person subject to this Act shall require that the form be identical in content and format to the Medical Waste Tracking Form except that a State may require the submission of other information which is supplemental to that on the form. Such State-required information may be included through use of additional sheets or such other means as the State deems appropriate. The Agency determines that no additional or supplemental State information can be required on the form except as specified below. Generators of regulated medical waste in Covered States are advised to be aware of any special requirements within the Covered States.

If States wish to print their own forms, they may print in one inch box at the top of the form the following types of information: (1) Where to obtain a State printed tracking form; (2) essential State information (State addresses or telephone numbers); and (3) special State instructions (e.g., if the State requires a five- or six-part form, that State might print addresses to which the additional forms must be sent).

The Medical Waste Tracking Form also includes a box for a State Tracking Form Number. If the State requires such a number, it can be printed on the form in that box. In addition, some States may require waste identification or waste authorization numbers. These numbers can be entered by the generator in Box 11(a-c). In addition, States may require generators to use Box

11(c) to identify medical waste regulated under State law but not under Federal law.

Federal regulations require generators, transporters, intermediate handlers, and destination facilities to complete the form according to the following instructions.

Medical Waste Tracking Form Specific Instructions

The following describes each section of the Medical Waste Tracking Form and provides instructions for completing each of these sections (i.e., boxes). The waste generator completes Boxes 1-15, the transporter and/or intermediate handlers completes Boxes 16-21, and the owner or operator of the destination facility completes Boxes 22-23. The transporter may assist the generator in completing any of the boxes, but the generator is responsible for ensuring the accuracy of information entered on the form and must sign Box 15 after Boxes 1-14 are completed.

Box 1. Generator's Name and Mailing Address. Enter the name and mailing address of the generator. The mailing address should be the address to which intermediate handler or the destination facility will return the signed copy of the tracking form, and should be for the location where the generator's tracking forms will be handled for purposes of recordkeeping and exception reporting (e.g., the company's billing office, corporate headquarters, or the actual site of generation).

While the address entered here need not identify the particular site of generation, the generator must maintain its records so that individual waste shipments (identified by a unique tracking form document number assigned by the generator, discussed next) can be associated with the actual sites of generation.

Box 2. Tracking Form Number. This is the unique number that the generator must assign to each shipment of regulated medical waste. It will ensure that each individual shipment can be identified and independently tracked from the site of generation. [The number could be the date of shipment or some other notation that the generator wishes to utilize.]

Box 3. Telephone Number. Enter the telephone number for the generator representative who can provide additional information about the shipment in the event of an emergency, or in the event the transporter, intermediate handler or destination facility requires it for other reasons (e.g., to inform the generator that an alternative disposal facility must be used).

Box 4. State Permit or ID Number. This is an optional entry, except when required by State law. Some States may assign a number of alphanumeric designation to uniquely identify each generator, and may require that the generator include this designation on each medical waste tracking form it initiates.

Box 5. Transporter's Name, Mailing Address and EPA Medical Waste Identification Number. Indicate in this space the name and address of the regulated medical waste transporter who will be the first transporter of the waste listed on the tracking form. The mailing address should be the business mailing address of the transporter. The transporter must fill in his EPA Medical Waste Identification Number. If a number has not yet been assigned, the transporter must leave this box blank. The

EPA Medical Waste Identification Number is assigned by EPA when the transporter notifies EPA.

Box 6. Telephone Number. Enter the telephone number of the transporter that the generator, intermediate handler or destination facility may call to obtain information regarding medical waste shipments.

Box 7. State Transporter Permit or ID Number. This is an optional entry to be utilized where States have assigned permit or identification numbers to each medical waste transporter and require that designation to be recorded on each tracking form. The number should be the permit or identification number used by the State in which the regulated medical waste was generated.

Box 8. Destination Facility Name and Address. The generator must enter the name and site address of the off-site destination facility (i.e., treatment and destruction or disposal facility) that the generator has specified to receive the regulated medical waste. The site address is necessary to inform the transporter where the shipment must be delivered. [If the generator does not have this information, the transporter may complete this section, but only before the generator signs the form. Transfer facilities and other temporary storage facilities used by transporters for storage of waste during ordinary transport must not be listed here as the destination facility.] Intermediate handlers used by the generator or transporter to either treat or destroy the waste (but not both) must not be listed here either.

Box 9. Telephone Number. Enter the destination facility's telephone number which a generator or transporter may call to obtain information regarding the status of a shipment.

Box 10. State Permit or ID Number. This is an optional box which must be filled out if this information is required by the State in which the destination facility is located. States may require that the destination facility (i.e., treatment and destruction or disposal facilities) be permitted and they may require that a State-assigned unique permit or identification number be entered in this space.

Box 11. U.S. EPA Waste Description. The two Federally-regulated medical waste categories are listed in Boxes 11(a) and 11(b): Regulated Medical Waste (untreated); Regulated Medical Waste (treated). Box 11(c) is available for other State regulated medical waste. The generator must determine the categories of his waste, before completing Boxes 12 and 13. A definition of "waste category" is found in 40 CFR 259.10. [If States have a waste code, a waste authorization number, or a similar requirement, it may be inserted to the right of the waste category to which it applies.]

Box 12. Total Number Containers. The total number of containers (e.g., bags, boxes, pails, drums, etc.) for each of the applicable waste categories must be entered in the corresponding space.

Box 13. Total Weight or Volume. The total weight of the waste (excluding the container weight), by applicable waste category must be entered in the corresponding space. If the waste is oversized and is not packaged in a standard container, a volumetric measure

may be used; however, the unit of measure must be noted in that space as well.

Box 14. Special Handling Instructions and Additional Information. Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information, including alternative treatment and/or disposal facility information, if necessary. Generators may also include in this box a written request for the destination facility to certify disposal of the regulated medical waste through signature and dating within this box. [Note: The signature in the Destination Facility Certification Box (Box 22) is only to be used to certify receipt of the waste at the time of delivery to the facility.]

For international shipments, generators must enter in this space the point of departure (city and State) for those wastes destined for treatment, destruction, or disposal outside the United States. This box is also for use of transporters delivering regulated medical waste across international borders to verify delivery of the waste to a foreign transporter, intermediate handler or destination facility. This space may also be used if there is need to identify an intermediate handler and/or a third transporter. States may not require additional information to be provided in this space on the tracking form. However, other State-specific information requirements may be included on a separate, attached sheet.

This space should also be used to provide special instructions or additional information regarding oversized regulated medical waste that cannot be easily packaged in plastic bags or standard containers. In these instances, enter a description of the waste including whether the waste is untreated or treated, the number of pieces, and the approximate total weight.

Box 15. Generator's Certification. This statement, when signed by the generator, certifies that all information required to be provided by that generator is accurate (including any information provided by the transporter in Boxes 1-14), all documented wastes are properly prepared for transport and all applicable State and Federal requirements have been met. The generator must read, sign by hand, date this certification statement and enter the name of the generator into the certification statement. The persons signing the statement must be authorized to make the required declarations, in writing, by the person in charge of the generator's operations. The generator must make certain that Boxes 1-14 (except Boxes 4, 7, 10, and 11(c), which are optional unless required by the State) are completed prior to signing the form.

Box 16. Transporter 1 Certification of Receipt. The first transporter is required to acknowledge the acceptance of the waste

shipment from the generator by signing the form in this space and recording the date of acceptance. Any discrepancies or other related information should be noted in the Discrepancy Box (Box 23) of the tracking form before signing it. In those instances when a transporter initiates a tracking form, he must complete Boxes 1-15 and must also certify receipt as transporter 1, if he is also the first transporter as identified in Box 5 (Transporter's Name and Mailing Address).

Box 17. Transporter 2 or Intermediate Handler Name and Address, and EPA Medical Waste Identification Number. In the event the waste shipment is to be transported by a second transporter or is taken to an intermediate handler, that recipient must enter its name and business mailing address information in this place, and its EPA Medical Waste Identification Number, when appropriate.

Box 18. Telephone Number. Enter the telephone number of the second transporter or intermediate handler to be used when checking or investigating the status of a shipment.

Box 19. State Transporter Permit or ID Number. This is an optional entry. The secondary transporter or intermediate handler State-assigned permit or identification number should be entered in this space (see description for Box 7).

Box 20. Transporter 2 or Intermediate Handler Certification of Receipt. A secondary transporter or intermediate handler is required to certify acceptance of the waste shipment by printing or typing the name of the person accepting the waste, recording the date of acceptance, and signing the form. Any discrepancies or other related information should be noted in the Discrepancy Box (Box 23) of the tracking form before signing this box.

Box 21. New Tracking Form Number. If the regulated medical waste shipment is consolidated or reassigned to a new tracking form, the new tracking form number must be recorded in this box on the original generator's form. [If the Covered State preprints forms and includes a State Tracking Form Number, that number should be entered in this space.] If the State does not include a preprinted number on the form the transporter or intermediate handler should enter its own unique tracking form number.

Box 22. Destination Facility. The authorized representative of the destination facility certifies receipt and acceptance of the shipment on behalf of the owner of the facility by completing this box. If no discrepancies are noted, the authorized representative should place a checkmark before the statement "received in accordance with items 11, 12, and 13," print or type his name, record the date of acceptance, and sign the box. If there are any discrepancies, he

should not place a check there. He should, instead, note the discrepancies in Box 23.

If for some reason the regulated medical waste was delivered to a facility other than that indicated in Box 8, then the authorized representative of the facility that accepted the waste completes Box 22, as indicated above, enters in Box 14 the name, address, telephone number and the facility permit or identification number, if any, of the facility accepting the waste.

Box 23. Discrepancy Box. The authorized representative of the destination (or alternate) facility, on behalf of the owner or operator, must note any discrepancy between the waste described on the tracking form and the waste actually received at the facility. [Note: in some instances, due to the consolidation or remanifesting provisions of this Part, transporters and intermediate handlers may also need to record discrepancies.] All discrepancies must be noted by inclusion in Box 23. Owners and operators of facilities who cannot resolve discrepancies within 15 days of receiving a waste shipment must file a discrepancy report as required in 40 CFR 259.82. Discrepancy reports must be submitted to the appropriate State agencies and to the appropriate EPA Regional offices, as required in § 259.82 of this Part. EPA Regional office addresses are listed below.

EPA Regional Administrators

Regional Administrator, U.S. EPA Region I,
J.F. Kennedy Federal Building, Room 2203,
Boston, MA 02203

Regional Administrator, U.S. EPA Region II,
26 Federal Plaza, New York, NY 10278

Regional Administrator, U.S. EPA Region III,
841 Chestnut Bldg. Philadelphia, PA 19107

Regional Administrator, U.S. EPA Region IV,
345 Courtland Street, NE, Atlanta, GA
30365

Regional Administrator, U.S. EPA Region V,
230 S. Dearborn Street, Chicago, IL 60604

Regional Administrator, U.S. EPA Region VI,
1445 Ross Avenue, 12th Floor, Suite 1200,
Dallas, TX 75202

Regional Administrator, U.S. EPA Region VII,
726 Minnesota Avenue, Kansas City, MO
66101

Regional Administrator, U.S. EPA Region
VIII, 999 18th Street, Suite 500, Denver, CO
80202-2405

Regional Administrator, U.S. EPA Region IX,
1325 Mission Street, San Francisco, CA
94103

Regional Administrator, U.S. EPA Region X,
1200 Sixth Avenue, Seattle, WA 98101

Appendix II to Part 259—On-Site Medical Waste Incinerator Report Form and Instructions

BILLING CODE 5560-50-M

ON-SITE MEDICAL WASTE INCINERATION REPORT

Page 1 of ____

I. FACILITY INFORMATION

1. Reporting Period

☐ June 22, 1989* to December 22, 1989☐ June 22, 1990 to December 22, 1990

2. Facility Name and Mailing Address

Facility Name _____

Mailing Address _____

City _____

State _____

Zip Code _____

3. Location of Incineration Facility

☐ Address of location is the same as
mailing address in Box 2.
or

Street Address _____

City _____

State _____

Zip Code _____

4. Type of Facility

☐ Hospital☐ Laboratory
Facility☐ Veterinary
Clinic☐ Private Practice
or Clinic☐ Funeral Home/Crematorium☐ Other (Specify) _____

5. Contact Person at Facility

Name _____

Title _____

()
Telephone Number _____

6. Waste Feed Information (total for all incinerators specified in Box 7)

A. Approximate Total Quantity
of Regulated Medical Waste
Incinerated:

| | | | | | | | | | Pounds/6-month reporting period

B. Approximate Percentage of
Total Waste Incinerated
That is Regulated Medical
Waste:

| | | | %

C. Approximate Quantity of
Regulated Medical Waste
Received From Sources
Outside This Facility:

| | | | | | | | | | Pounds/6-month reporting period

*July 24, 1989 for the State of Rhode Island and the Commonwealth of Puerto Rico.

Facility Name _____

Page ____ of ____

II. INCINERATION INFORMATION**7. Total Number of Incinerators That Incinerate Regulated Medical Waste at This Facility:**111**8a. Incinerator Design Information**
(for incinerator # 1)

- A. Age of Incineration Unit: 111 Years
- B. Type of Unit: ☐ Excess Air
☐ Starved Air
☐ Rotary Kiln
☐ Other (Specify) _____
- C. Number of Combustion Chambers: ☐ One Chamber
☐ Two Chambers
☐ Three or More Chambers
- D. Design Charging Capacity: 1111111 Pounds per hour

8b. Incinerator Design Information*
(for incinerator #2, if any)

- A. Age of Incineration Unit: 111 Years
- B. Type of Unit: ☐ Excess Air
☐ Starved Air
☐ Rotary Kiln
☐ Other (Specify) _____
- C. Number of Combustion Chambers: ☐ One Chamber
☐ Two Chambers
☐ Three or More Chambers
- D. Design Charging Capacity: 1111111 Pounds per hour

* If there are additional incinerators, use additional sheet(s) to provide the required incinerator information.

9. Certification

I certify that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.

Signature and official title of owner or owner's authorized representative.

Signature_____
Title_____
Date

General Instructions**Authority**

This information is required by EPA under the authorities of sections 11003 and 11004 of the Resource Conservation and Recovery Act. EPA expects that you will provide this information based on reasonably available records, or, in the absence of such records, on your knowledge.

Who Must Complete This Form?

This form must be completed by generators of regulated medical waste who:

- Are located in Covered States; and
- Use an on-site incinerator to burn regulated medical waste during the reporting periods described below.

Only complete this form for incinerators that burn regulated medical waste. Refer to 40 CFR 259.61 for recordkeeping requirements pertaining to this reporting form.

When to Complete This Form?

Generators who incinerate regulated medical waste on-site are required to submit the On-site Medical Waste Incinerator Report to EPA for two separate reporting periods.

The first report covers the period from June 22, 1989 (July 24, 1989 for generators located in Rhode Island and the Commonwealth of Puerto Rico) to December 22, 1989. The submission date for the first reporting period is February 6, 1990.

The second report covers the period from June 22, 1990, to December 22, 1990. The submission date for the second reporting period is February 6, 1991.

Where to Send This Report?

In each reporting period, submit two copies to: Chief, Waste Characterization Branch, Office of Solid Waste (OS-332), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Instructions for Completing the Form

Boxes 1 through 5 require general information about the facility. Boxes 6 through 8 require specific information about the waste incinerated and technical information regarding the incinerators themselves. Box 9 requires the facility owner or operator to certify the accuracy of the information submitted. Begin with Box 1 and continue sequentially to each box. If there is more than one on-site incinerator used to incinerate regulated medical waste, complete Box 8(a) for the first incinerator and Box 8(b) for the second incinerator; for more than two

incinerators, you will need to use an additional sheet(s) to provide the required incinerator information. You will also need to sign the certification Box (Box 9) on each additional sheet.

Box 1. Reporting Period. Mark an "X" in the box that specifies the reporting period for the information you are submitting.

Box 2. Facility Name and Mailing Address. Enter the name and mailing address of the incineration facility.

Box 3. Location of Incineration Facility. If the location address of the incineration facility is the same as the mailing address entered in Box 2, mark an "X" in the designated box. If the location address is different from the mailing address, enter the location information.

Box 4. Type of Facility. Mark an "X" in the box that classifies the business or organization that owns or operates the incineration facility. If the categories do not accurately represent your facility, mark the "Other" category and specify the facility type in the space provided.

Box 5. Contact Person at the Facility. Enter the name, title, and telephone number of the person who is most knowledgeable about the incineration operations at your facility.

Box 6. Waste Feed Information. The questions in this box ask about quantities or regulated medical waste incinerated at your facility. When entering a response, right justify the entry (e.g., 2000 Pounds).

A. Approximate Total Quantity of Regulated Medical Waste Incinerated. Enter the total weight (in pounds) of the regulated medical waste incinerated at your facility (total of all incinerator units) during the six-month reporting period. To identify the quantities of regulated medical waste incinerated, refer to the operating logs kept for each incinerator at your facility as required under 40 CFR 259.61.

B. Approximate Percentage of the Total Waste Incinerated that is Regulated Medical Waste. Using the information from your operating log, calculate the percentage (by weight) of the total waste incinerated that is regulated medical waste. To do this, divide the amount of regulated medical waste incinerated by the total amount of waste incinerated. Multiply the result by 100. Enter the number in the space provided.

C. Approximate Quantity of Regulated Medical Waste Received from Sources Outside this Facility. Enter the total weight (in pounds) of regulated medical waste received from sources outside your facility

during the six-month reporting period. An example of outside sources would include a facility that receives waste from a physician with an office several miles away.

Box 7. Total Number of Incinerators at this Facility. Enter the total number of incinerators that burn regulated medical waste at your facility. Only include incinerators that incinerate regulated medical waste.

Box 8. Incinerator Design Information. To complete Items A through D in this box, refer to design blue prints, manufacturer's information, or other sources.

A. Age of Unit. Enter the age of the incinerator unit in years.

B. Type of Unit. Mark an "X" in the box that describes this incinerator type.

- An "excess air" unit is usually a compact box-like structure with chambers and baffles, and it operates with high air flows to assure adequate combustion. It is usually loaded manually through a charging door.

- A "starved air" unit is usually cylindrical, but can be rectangular, and it typically has combustion air fed through the floor or on the sides. The waste is usually manually loaded, although larger units can be mechanically loaded.

- A "rotary kiln" unit is cylindrical and rotates about the lengthwise axis. If this incinerator is not described by any of the three groups listed, mark an "X" in the box labelled "other" and describe the unit in the space provided. If necessary, attach additional sheets.

C. Number of Combustion Chambers. Mark an "X" in the box that describes the number of combustion chambers in this incinerator.

D. Design Charging Capacity. Enter the maximum amount of waste that this incinerator is designed to burn, in pounds per hour. If you cannot locate any records, estimate the number of pounds per hour that this unit is designed to burn. [NOTE: When entering a quantitative response, such as, rates, weights or time, right justify the entry (e.g., 2000)].

Box 9. Certification. After completing this form, the facility owner or an authorized representative must sign and date the certification and indicate his or her position.

Appendix III to Part 259—Medical Waste Transporter Report Form and Instructions

BILLING CODE 6560-50-M

Page 1 of 1

MEDICAL WASTE TRANSPORTER REPORT

I. TRANSPORTER IDENTIFICATION INFORMATION

1. Covered State and Reporting Period		
Covered State _____	<input type="checkbox"/> June 23, 1989* to December 19, 1989 <input type="checkbox"/> December 20, 1989 to June 17, 1990 <input type="checkbox"/> June 18, 1990 to December 14, 1990 <input type="checkbox"/> December 15, 1990 to June 12, 1991	
2. Transporter Name and Mailing Address		3. EPA Medical Waste Identification Number
Name _____ Address _____ City _____ State _____ Zip Code _____		
4. Certification for Intermediate Transporter		
<input type="checkbox"/> Yes <input type="checkbox"/> No Signature _____		
5. Contact Person		
Name _____ Title _____ Telephone Number _____	()	
6. Certification		
I certify that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.		
Name and official title of owner or owner's authorized representative. Signature _____ Title _____ Date _____		

II. DISPOSITION INFORMATION

7. Total Quantity of Regulated Medical Waste by Category and Destination		
	Second Transporter or Transfer Facility	Intermediate Handler or Destination Facility
A. Untreated Waste	| | | | | | | | | Pounds	| | | | | | | | | Pounds
B. Treated Waste	| | | | | | | | | Pounds	| | | | | | | | | Pounds

[PLEASE USE TYPEWRITER OR BLACK INK TO COMPLETE THIS FORM]

*July 24, 1989 for the State of Rhode Island and the Commonwealth of Puerto Rico

Transporter Name or ID number _____

page ____ of ____

III. GENERATOR IDENTIFICATION (USE ADDITIONAL SHEETS IF NECESSARY)**8. Total Number of Generators From Whom Regulated Medical Waste was Accepted**

(If your answer is "0", skip to section IV)

| | | | |

9. Identity of Generators

Please Complete Sections A, B, and C for each Generator

A. Name and Location of Generator

Generator Name _____

Street Address _____

City _____

State _____

Zip Code _____

B. Type of Generator | |

Refer to instructions for code

If other, please specify: _____

C. Quantity of Regulated Medical Waste Accepted From the Generator

Untreated | | | | | | | | | | Pounds

Treated | | | | | | | | | | Pounds

A. Name and Location of Generator

Generator Name _____

Street Address _____

City _____

State _____

Zip Code _____

B. Type of Generator | |

Refer to instructions for code

If other, please specify: _____

C. Quantity of Regulated Medical Waste Accepted From the Generator

Untreated | | | | | | | | | | Pounds

Treated | | | | | | | | | | Pounds

A. Name and Location of Generator

Generator Name _____

Street Address _____

City _____

State _____

Zip Code _____

B. Type of Generator | |

Refer to instructions for code

If other, please specify: _____

C. Quantity of Regulated Medical Waste Accepted From the Generator

Untreated | | | | | | | | | | Pounds

Treated | | | | | | | | | | Pounds

A. Name and Location of Generator

Generator Name _____

Street Address _____

City _____

State _____

Zip Code _____

B. Type of Generator | |

Refer to instructions for code

If other, please specify: _____

C. Quantity of Regulated Medical Waste Accepted From the Generator

Untreated | | | | | | | | | | Pounds

Treated | | | | | | | | | | Pounds

Transporter Name or ID Number _____

page ____ of ____

IV. INTERMEDIATE HANDLER AND DESTINATION FACILITY IDENTIFICATION
(USE ADDITIONAL SHEETS IF NECESSARY)**10. Total Number of Intermediate Handlers and Destination Facilities to which Regulated Medical Waste was Delivered**

| | |

(If your answer is "0", do not continue with this section)

11. Identity of Intermediate Handlers and Destination Facilities

Please Complete Sections A, B and C for each Facility

A. Name and Location of Facility

Facility Name _____

Street Address _____

City _____

State _____

Zip Code _____

B. Type of Facility | |

Refer to instructions for code

C. Quantity of Regulated Medical Waste Delivered to the Facility

Untreated | | | | | | | | | Pounds

Treated | | | | | | | | | Pounds

A. Name and Location of Facility

Facility Name _____

Street Address _____

City _____

State _____

Zip Code _____

B. Type of Facility | |

Refer to instructions for code

C. Quantity of Regulated Medical Waste Delivered to the Facility

Untreated | | | | | | | | | Pounds

Treated | | | | | | | | | Pounds

A. Name and Location of Facility

Facility Name _____

Street Address _____

City _____

State _____

Zip Code _____

B. Type of Facility | |

Refer to instructions for code

C. Quantity of Regulated Medical Waste Delivered to the Facility

Untreated | | | | | | | | | Pounds

Treated | | | | | | | | | Pounds

A. Name and Location of Facility

Facility Name _____

Street Address _____

City _____

State _____

Zip Code _____

B. Type of Facility | |

Refer to instructions for code

C. Quantity of Regulated Medical Waste Delivered to the Facility

Untreated | | | | | | | | | Pounds

Treated | | | | | | | | | Pounds

General Information

Authority

This information is required by EPA under the authorities of Sections 11003 and 11004 of the Resource Conservation and Recovery Act. EPA expects that you will provide to keep as a medical waste transporter.

Who Must Complete This Report?

This report must be completed by transporters of regulated medical waste who accept and transport regulated medical waste generated in a Covered State, and who are required to obtain an EPA Medical Waste Identification Number under § 259.72 of this Part.

What Type of Information is Required by This Report?

The Medical Waste Transporter Report Form collects information on the source and disposition of regulated medical waste handled by a transporter. The form is divided into four sections:

- I. Transporter Identification Information
- II. Disposition Information
- III. Generator Identification
- IV. Intermediate Handlers and Destination Facility Identification

How to Complete These Forms?

A separate copy of this form must be completed for each Covered State in which the regulated medical waste which you have transported, during the reporting period was generated.

[Note: If you did not transport regulated medical waste generated in a Covered State during a reporting period, you do not have to submit a Medical Waste Transporter Report Form for that Covered State for that reporting period]. The examples described below illustrate who (i.e., those transporters) must report, and for which Covered States:

Example 1: Company X accepts waste generated in New York. (In this scenario, New York is assumed to be a Covered State and New Hampshire, a non-Covered State.)

Company X accepts regulated medical waste from six generators located in New York and transports the waste for disposal to two facilities in New Hampshire. (Because New York is a Covered State under the demonstration program, Company X must notify EPA that it accepts and transports regulated medical waste generated in a Covered State. EPA will issue an EPA Medical Waste Identification Number to Company X for the State of New York.)

In this case, Transporter X only accepts and transports regulated medical waste from one Covered State and, thus, will only have to complete one report, for the State of New York.

Example 2: Company Y accepts regulated medical waste generated in New Jersey and New York. (In this scenario, both New Jersey and New York are assumed to be Covered States, and New Hampshire a non-Covered State.)

Company Y accepts regulated medical waste from four generators in New York and from five generators in New Jersey. Company Y delivers the waste accepted from these

generators to a destination facility in New Hampshire. (Company Y notifies EPA that it accepts and transports regulated medical waste that is generated in two Covered States. EPA issues two EPA Medical Waste Identification Numbers to Company Y; the first identification number is for the transport of regulated medical waste generated in New York and the second number is for the transport of regulated medical waste generated in New Jersey.)

Because Company Y has accepted waste generated in two Covered States, the company will be required to complete and submit two Medical Waste Transporter Report Forms, one for the waste from the four generators in New York and a separate Transporter Report Form for the five generators in New Jersey.

Example 3: Three transporter companies, Company X, Company B, and Company Y, transport regulated medical waste generated in New York. (Again, in this scenario, New York is assumed to be a Covered State and New Hampshire, a non-Covered State.)

Company X accepts regulated medical waste from six generators located in New York and transports the waste to Company B which is an intermediate transporter located in New Hampshire. Company B accepts the waste from Company X and transports the waste to Company Y, also located in New Hampshire, which then delivers the waste to a destination facility in New Hampshire. (Because New York is a Covered State, all three companies (X, B, and Y) must notify EPA that they accept and transport regulated medical waste generated in a Covered State.)

Each transporter company must also complete a separate Medical Waste Transporter Report Form. In completing the form, Company X must supply information on each New York generator from which it accepts regulated medical waste, and on the quantities it accepted. Company Y must supply information on the disposal facility to which it delivers the regulated medical waste and the quantities it delivered. Company B must only supply information to verify it is an "intermediate transporter" as it neither accepted waste directly from a generator nor delivered waste to an intermediate handler or destination facility.

When to Complete the Report?

Complete each Medical Waste Transporter Report Form using the information that can be obtained from the tracking forms and transporter logs. Use only those tracking forms and logs that have certification receipt dates in Box 16 of the tracking form, that fall within the reporting periods identified below. Submit the report no later than 45 days following each reporting period. The schedule of submission dates is as follows:

Reporting period	Submission date
June 23, 1989 ¹ to December 19, 1989.	Feb. 2, 1990.
December 20, 1989 to June 17, 1990.	Aug. 1, 1990.
June 18, 1990 to December 14, 1990.	Jan. 28, 1991.

Reporting period	Submission date
December 15, 1990 to June 12, 1991.	July 27, 1991.

¹ July 24, 1989 for transporters handling regulated medical waste generated in the State of Rhode Island and the Commonwealth of Puerto Rico.

Where to Send This Report?

Copies of each report must be submitted as follows:

(1) One copy must be submitted to: Chief, Waste Characterization Branch (OS-332), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

(2) A second copy must be submitted to the Director of the waste management agency in the State for which the transporter has compiled the report, as follows:

Connecticut—Director, Solid Waste Management Unit, CT Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06106.

New Jersey—Medical Waste Group, Division of Solid Waste Management, NJ Dept. of Environmental Protection, 401 E. State Street, CN-414, Trenton, NJ 08625.

New York—Chief of Waste Transportation Permit Section, New York State Department of Environmental Conservation, 50 Wolf Road, Albany, NY 12233-7250.

Rhode Island—Assistant to the Director, RI Department of Environmental Management, 9 Hayes Street, Providence RI 02908-5003.

Puerto Rico—Director, Land Pollution Control Area, Environmental Quality Board, P.O. Box 11488, Santurce, Puerto Rico 00910-1488.

Instructions for Completing the Form

The item-by-item instructions that follow explain which Sections (I-IV) each type of transporter must complete.

[Note: If your company accepts and transports regulated medical waste from generators located in a Covered State and you have not been issued an EPA Medical Waste Identification Number, you must still complete this form for each Covered State's waste which you have transported during the reporting period. After completing the entire form, number each page appropriately in the space provided (e.g., page 14 of 15).]

Section I. Transporter Identification Information

Boxes 1 through 6 require the submittal of information on the reporting period and your transporter operations. Begin with Box 1 and continue sequentially with each box.

Box 1. Covered State and Reporting Period. Enter the Covered State for which you are submitting the report and mark an "X" in the box that specifies the reporting period for the information you are submitting.

Box 2. Transporter Name and Mailing Address. Enter the name and the mailing address of the transporter completing this report.

Box 3. EPA Medical Waste Identification Number. Enter the 12-digit identification number assigned to your company's transporter operations in the Covered State for which you are completing this form. If you do not have an identification number, enter the name of the Covered State for which you are completing this form.

Box 4. Certification for Intermediate Transporter. Transporters who (1) solely accept regulated medical waste from transporters who have, themselves, transported the waste, and (2) deliver such waste only to another transporter for further movement, are considered "intermediate transporters" and need only complete Boxes 1 through 6. If you are an intermediate transporter, mark an "X" in the box corresponding to "YES" and enter your signature after the box. If you are not an intermediate transporter, mark an "X" in the box corresponding to "NO". In both cases, continue on to Box 5.

Box 5. Contact Person. Enter the name, title, and telephone number of the person who is most knowledgeable about your transportation operations, or the person who is responsible for the information in this report.

Box 6. Certification. After completing this form, the company owner or an authorized representative must sign and date the certification and indicate his or her title or position. If your organization has no legal owner (e.g., a local government entity), the individual within your organization who is responsible for the information in this report must sign and date the certification and indicate his or her position.

If you were an intermediate transporter during the reporting period marked in Box 1, you do not need to complete the remaining sections of this report. If, however, you accepted regulated medical waste directly from a generator located in a Covered State, or you delivered such waste to an intermediate handler or destination facility during the reporting period marked in Box 1, continue with sections II, III and IV and follow the instructions.

Section II. Disposition Information

This section requires submittal of information on the quantities of regulated medical waste you transported during the reporting period marked in Box 1.

Box 7. Total Quantity of Regulated Medical Waste by Category and Destination. This box requests information on the total quantity of (A) untreated and (B) treated regulated medical waste you accepted for transport during the reporting period. The total quantity of waste should only include the regulated medical waste you transported that was generated in the Covered State for which you are completing this form. For each category of waste, enter the quantity of waste (in pounds) that was delivered (1) to a second transporter or transfer facility and (2) to an intermediate handler or destination facility. If either category of waste was not delivered to a facility, enter "0" for that category and facility combination. If you did not deliver waste to one of the types of facilities, enter "0" for that facility type. Right justify each entry (e.g., 2000 pounds).

Section III. Generator Identification

This section requires the submittal of information regarding the generators from whom you accepted regulated medical waste during the reporting period marked in Box 1.

Box 8. Total Number of Generators from whom Regulated Medical Waste was Accepted. Enter the total number of generators from whom you accepted regulated medical waste for transport during the reporting period. Include only those generators located in the Covered State for which you are completing this form. If your company did not pick up any regulated medical waste directly from a generator, enter "0" in the box and skip to Section IV. Right justify each entry (e.g., 143).

Box 9. Identity of Generators. Complete Boxes 9A through 9C on each individual generator in the Covered State from whom you accepted regulated medical waste during the reporting period. This form provides space for identification of four generators. If you accepted waste from more than four generators, copy this page as needed and provide the information on each generator. The number of generators entered in Box 8 must equal the total number of all generators identified in Box 9.

9A. Name and Location of Generator. Enter the name and the address representing the physical location of the generator (i.e., the location at which the waste is picked up).

9B. Type of Generator. Enter one of the following codes that best classifies the type of generator. Use your best judgment as to the generator's type.

Code	Generator Type
01	Hospital—includes waste generated in all laboratories and departments.
02	Laboratory—including clinical and research laboratories generating regulated medical waste.
03	Clinic—includes group-practice facilities that provide ambulatory care of one or more specialties such as hemodialysis, prenatal, or postpartum care, surgical centers, family practice centers, etc. Also includes outpatient drug treatment facilities, and nonresidential medical day care facilities.
04	Physician—includes single and multiple private-practice physician offices.
05	Dentist—includes single and multiple private-practice dental offices.
06	Veterinarian—includes single and multiple private-practice veterinary offices.
07	Long Term or Residential Health Care Facility—includes facilities providing skilled or non-skilled care such as nursing homes and residential drug treatment centers.
08	Blood Banks—includes freestanding blood banks (not at a hospital) and their mobile off-site activities.
09	Other—includes any other facility generating regulated medical waste such as ambulance services, infirmaries, etc. If you enter this code, specify the type of generator in the space after the code.

9C. Quantity of Regulated Medical Waste Accepted from the Generator. For each category (untreated and treated), enter the amount of waste (in pounds) that you accepted from the generator during the reporting period. If you did not accept waste in one of the categories, enter "0." Right justify each entry (e.g., 20000 pounds).

Section IV. Intermediate Handlers and Destination Facilities Identification

Boxes 10 and 11 require the submittal of information regarding the intermediate handlers and destination facilities to which you delivered regulated medical waste during the reporting period marked in Box 1.

Box 10. Total Number of Intermediate Handlers and Destination Facilities to which Regulated Medical Waste was Delivered. Enter the total number of intermediate handlers and destination facilities to which you delivered regulated medical waste during the reporting period. This box should include all facilities (in both Covered and non-Covered States) that accepted the regulated medical waste listed in Box 7. If you did not deliver any regulated medical waste to an intermediate handler or destination facility during the reporting period enter "0" in the box and do not complete the remainder of this section. Right justify your entry (e.g., 29).

Box 11. Identity of Intermediate Handlers and Destination Facilities. Complete Boxes 11A through 11C identifying each individual intermediate handler and destination facility to which you delivered regulated medical waste generated in the Covered State for which this form is completed. This form provides spaces for identification of four facilities. If you delivered waste to more than four facilities, copy this page as needed and provide the requested information for each facility. The number of facilities entered in Box 10 must equal the number of facilities identified in Box 11.

11A. Name and Location of Facility. Enter the name and the address representing the physical location of the facility.

11B. Type of Facility. Enter one of the following codes that best classifies the type of facility:

Code	Facility Type
1	Landfill
2	Incinerator
3	Treatment Facility (other than incinerator)
4	Destruction Facility (other than incinerator)
5	Treatment and Destruction Facility (other than incinerator)

11C. Quantity of Regulated Medical Waste Delivered to the Facility. For each category (untreated and treated) enter the quantity of waste (in pounds) that you delivered to the intermediate handler or destination facility during the reporting period. If you did not deliver waste in one of the categories enter "0" for that category. Right justify each entry (e.g., 2000 pounds).

**Appendix IV to 40 CFR Part 259—
Recommended Medical Waste
Transporter Notification Form and
Instructions**

BILLING CODE 6560-50-M

Medical Waste Transporter Notification Form

Identification No.: _____
Date Received: _____
Receiving Official: _____

(Please Type or Print Clearly)

[illegible]

Instructions for Completing the Medical Waste Transporter Notification Form

General Information

Authority. This information is required by the EPA under authority of Sections 11003 and 11004 of the Resources Conservation and Recovery Act.

Who Must Notify: Transporters that transport regulated medical waste that is generated in a Covered State must notify the U.S. Environmental Protection Agency for each Covered State's regulated medical waste they intend to transport. This requirement extends to transporters that do not actually transport the waste within that Covered State's boundaries but that transport the waste, generated in the Covered State, outside that Covered State's boundaries.

Transporters planning such activity may either complete a Notification Form or submit a letter containing the information required in 40 CFR 259.72(b). EPA will then issue a Medical Waste Identification Number unique to that transporter for each Covered State for which they are notifying. That number will be used to identify regulated medical waste transporters and can be used by generators to verify that the transporter has notified EPA of its intent to transport waste from their Covered State.

When to Notify: Notification must be submitted for a Covered State before the transporter may accept regulated medical waste generated in that Covered State. Transporters may, however, accept such waste once they have submitted their notification, but before receiving their identification number. Upon receipt of that number, the transporter must enter it in Box 5 of the Medical Waste Tracking Form, when that form is required. Additionally, the

transporter must enter that number in Box 17 of the Tracking Form when acting as a secondary transporter, and in Box 1 when initiating a tracking form for load consolidation purposes.

Where to Send Notification: Two copies of the completed Notification Form, for each Covered State, must be sent to: Chief, Waste Characterization Branch, Environmental Protection Agency (OS-332), 401 M Street, SW., Washington, DC 20460.

One copy must also be sent to the Director of the waste management agency in the State for which the transporter is notifying. State agency addresses are listed below:

Connecticut—Director, Solid Waste Management Unit, CT Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06103.

New Jersey—Medical Waste Group, Division of Solid Waste Management, NJ Dept. of Environmental Protection, 401 E. State Street, CN-414, Trenton, NJ 08625.

New York—Chief of Waste Transportation Permit Section, New York State Department of Environmental Conservation, 50 Wolf Road, Albany, NY 12233-7250.

Rhode Island—Assistant to the Director, RI Department of Environmental Management, 9 Hayes Street, Providence, RI 02908-5003.

Puerto Rico—Director, Land Pollution Control Area, Environmental Quality Board, P.O. Box 11488, Santurce, Puerto Rico 00910-1488.

Notification Form Instructions

Note: All information must be typed or printed clearly.

Box 1. Covered State for which you are notifying. Enter the name of the Covered State of origin of the regulated medical waste(s) you intend to collect and/or transport. Enter only one State in this space; if you intend to transport waste from more than one Covered State you must submit a separate Notification Form for each of those States.

Box 2. Transporter Name and Mailing Address. Enter your organization's name, mailing address, the name of contact person at that location who is knowledgeable about your operations, and include that person's telephone number.

Box 3. EPA Hazardous Waste Identification Numbers. If the facility identified in Box 2 has an EPA Hazardous Waste Identification Number, enter the EPA-assigned 12-character hazardous waste identification number for the facility.

Box 4. Transporter's Facility Location(s). Enter the address, facility telephone number and any current State medical or infectious waste permit or license numbers for each transportation or transfer facility located within the Covered State identified in Box 1. If there are more than four such facilities in that Covered State you will need to use an additional sheet(s) to provide the required facility information; attached the additional sheets to the first.

Box 5. Certification. The Certification Statement must be read and hand signed by a corporate officer or the owner/operator of the transporter company.

[FR Doc. 90-15194 Filed 6-29-90; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register

Vol. 55, No. 127

Monday, July 2, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR part 29

[TB-90-004]

Tobacco Inspection Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to amend the Official Standard Grades for burley tobacco to more accurately describe tobacco as it presently appears at the marketplace. This proposal would add two new grades to accommodate green immature tobacco in the Mixed (M) group. These amendments are based on the Department's continuous review and evaluation to determine the adequacy and clarity of current grade standards.

DATES: Comments are due on or before August 1, 1990.

ADDRESSES: Send comments to the Director, Tobacco Division, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456. Comments will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Director, Tobacco Division, AMS, USDA, P.O. Box 96456, Washington, DC 20090-6456. Telephone (202) 447-2567.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department proposes to amend the regulations governing the Official Standard Grades for Burley Tobacco, U.S. Type 31 and Foreign Type 93, pursuant to the authority contained in the Tobacco Inspection Act of 1935, as amended (49 Stat. 731; 7 U.S.C. 511 *et seq.*).

The current standards for burley

tobacco, types 31 and 93, do not provide any grades to describe lots of tobacco containing over 20 percent of green color in the Mixed (M) group. Green (G) is a color term in the official standards applied to immature or crude tobacco. The M group is defined as consisting of tobacco of distinctly different groups which are mixed together in various combinations.

During last year's season, a significant number of M group lots containing 20 percent or more of green immature tobacco appeared at market. This proposal would add new grades M4G and M5G and would revise the rule pertaining to tobacco containing 20 percent or more of green immature leaves so that it would apply to lots of tobacco in the M group.

This proposed rule has been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be "nonmajor" because it does not meet any of the criteria established for major rules under the Executive Order. Initial review of the regulations contained in 7 CFR part 29 for need, currentness, clarity, and effectiveness has been completed.

Additionally, in conformance with the provisions of Public Law 96-354, the Regulatory Flexibility Act, full consideration has been given to the potential economic impact on small business. A number of firms which would be affected by this proposed rule do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. The Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. This proposed change would not affect the normal movement of the commodity in the marketplace. Compliance with this revision would not impose substantial direct economic costs, recordkeeping, or personnel workload changes on small entities, and it would not alter the market share or competitive positions of small entities relative to large entities.

All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal may file them with the Director, Tobacco Division, AMS, USDA, room 502 Annex Building, P.O. Box 96456, Washington, DC 20090-6456, not later than August 1, 1990.

Lists of Subjects in 7 CFR Part 29

Administrative practice and procedure, Advisory committees, Government publications, Imports, Pesticides and pests, Reporting and recordkeeping requirements, Tobacco.

Accordingly, the Department proposes to amend the regulations in 7 CFR part 29, subpart C, as follows:

PART 29—[AMENDED]

1. The authority citation for part 29, subpart C, continues to read as follows:

Authority: 7 U.S.C. 511b, 511m, and 511r.

2. Section § 29.3121 is revised to read as follows:

§ 29.3121 Rule 18.

Any lot of tobacco containing 20 percent or more of green leaves, or any lot which is not crude but contains 20 percent or more of green and crude combined, shall be designated by the color symbol "G" in the X, C, and M groups and the combination color symbol "GF" and "GR" in the B and T groups.

§ 29.3155 [Amended]

3. Section § 29.3155 is amended to add at the end of the table thereof:

Grades	Grade names and specifications
M4G	Fair Green Mixed. General quality of X4, C4, B4, and T4, heavy to tissuey body, immature, and 20 percent injury tolerance.
M5G	Low Green Mixed. Generally quality of X5, C5, B5, and T5, heavy to tissuey body, immature, and 30 percent injury tolerance.

Dated: June 26, 1990.

Daniel Haley,
Administrator.

[FR Doc. 90-15321 Filed 6-29-90; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION**13 CFR Part 121****Small Business Size Standards Waiver of the Nonmanufacturer Rule****AGENCY:** Small Business Administration.**ACTION:** Notice of intent to waive the nonmanufacturer rule for dictionaries and thesauruses.

SUMMARY: This notice advises the public that the Small Business Administration (SBA) is considering waivers of the "nonmanufacturer rule" for dictionaries and thesauruses. The basis for a waiver would be that no small business manufacturer is supplying these products to the Federal government. The effect of a waiver would be to allow an otherwise qualified regular dealer to supply the product of any domestic manufacturer on a Federal contract set aside for small business or awarded through the 8(a) program. The public is requested to comment on the validity of this proposed action.

DATES: Comments must be submitted on or before July 12, 1990.**ADDRESSES:** Address Comments to: Robert J. Moffitt, Chairman, Size Policy Board, U.S. Small Business Administration, 1441 L Street, NW., Room 600, Washington, DC 20416.**FOR FURTHER INFORMATION CONTACT:** Gary M. Jackson, Director, Size Standards Staff, Tel: (202) 653-6373.

SUPPLEMENTARY INFORMATION: Public Law 100-656, enacted on November 15, 1988, incorporated into the Small Business Act the previously existing regulation that recipients of Federal contracts set aside for small business or 8(a) contracts must provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the "nonmanufacturer rule." The SBA regulations imposing this requirement are found at 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any "class or products" for which there are no small business manufacturers of processors in the Federal market.

This notice proposes to waive the nonmanufacturer rule for dictionaries and thesauruses. The issue of a lack of small business publishers of dictionaries and thesauruses was recently brought to the attention of SBA by a wholesale firm in the 8(a) program. In response to this concern, SBA initiated a review of small business manufacturers or publishers of

dictionaries and thesauruses to the Federal Government.

To be considered in the Federal market, a small manufacturer must have been awarded a contract by the Federal government within the last three years. A class of products is considered to be a particular Product and Service Code (PSC), in this case PCS-7610 Books and Pamphlets, under the Federal Procurement Data System or an SBA recognized product line within a PSC. The definition of these terms is consistent with those used to establish a waiver of the nonmanufacturer rule for several types of construction equipment on December 28, 1989 (54 FR 53317).

SBA initially reviewed the Federal market by evaluating procurement statistics based on data originated by the U.S. General Services Administration's Federal Procurement Data Center (FPDC). Specifically, SBA examined a computerized FPDC data base, maintained by a private firm, or Federal contract awards for 1987 and 1988 (the latest data available) which lists: the type of product (PSC), the manufacturer, and whether the manufacturer is a small business.

The FPDC procurement data for fiscal years 1987 and 1988 revealed that while small business publishers of a variety of books, pamphlets and general reference books and received contracts, there were no small business publishers of dictionaries and thesauruses that had received Federal contracts. Thus a waiver for the entire PSC-7610 cannot be granted, but consideration can be given for a waiver for the component of dictionaries and thesauruses within this PSC.

The public is invited to submit comments on the basis for a waiver for dictionaries and thesauruses. If evidence is received or SBA finds, through its research, that a small manufacturer or publisher of dictionaries and thesauruses is, in fact, in the Federal market as defined by having received a Federal contract within the past three years, then SBA will not grant a waiver. If no small business publisher of dictionaries and the thesauruses are found in the Federal market, a waiver may be promulgated.

Dated: June 21, 1990.

Susan S. Engeleiter,
Administrator, U.S. Small Business
Administration.

[FR Doc. 90-15242 Filed 6-29-90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****23 CFR Part 630**

[FHWA Docket No. 84-10]

RIN 2125-AB18

Federal-Aid Programs and Project Authorization**AGENCY:** Federal Highway Administration (FHWA), DOT.**ACTION:** Withdrawal of advance notice of proposed rulemaking (ANPRM).

SUMMARY: The FHWA is withdrawing an ANPRM issued on August 3, 1984, 49 FR 31079, and is closing Docket No. 84-10. The ANPRM was issued to determine if there were more cost-effective and efficient means to accomplish programming and authorization activities under the Federal-aid highway program. Since the ANPRM was issued, the Federal-aid highway program has undergone statutory and policy changes. Any further rulemaking in this area would have to be based on more current information and public comment. Therefore, the ANPRM is being withdrawn.

FOR FURTHER INFORMATION CONTACT:

Mr. Jerry L. Poston, Office of Engineering, (202) 366-0450, or Michael J. Laska, Office of the Chief Counsel, (202) 366-1383, FHWA, 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On August 3, 1984, the FHWA published an ANPRM in the Federal Register (49 FR 31079) to solicit public comment on whether there are more cost-effective and efficient means to accomplish programming and authorization activities under the Federal-aid highway program. There were 60 responses to the ANPRM consisting of 27 from State highway agencies, 24 from county or city highway agencies, 4 from regional or metropolitan planning agencies and 5 from councils of mayors or similar organizations.

A wide variety of suggestions were presented for modifying the programming and authorization process. Several of these would involve major structural changes to the program and require legislative actions to initiate.

Subsequent to issuing ANPRM, the Federal-aid highway program has undergone statutory and policy changes. Additionally, the influence of the new national transportation policy and reauthorization of the Federal highway

program may influence decisions regarding the programming and authorization process. As a consequence, any further rulemaking in this area would have to be based on more current information and public comment. Therefore, the FHWA is withdrawing the ANPRM and closing Docket No. 84-10.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulation. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 630.

Grant programs—transportation, Highways and roads.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to the program.)

Authority: 23 U.S.C. 105, 106, 118, 134 and 315; 49 CFR 1.48(b).

Issued on: June 22, 1990.

T. D. Larson,
Administration.

[FR Doc. 90-15239 Filed 6-29-90; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

23 CFR Part 1327

[Docket No. 84-02; Notice 7]

RIN 2127-AD26

Procedures for Participating in and Receiving Data from the National Driver Register Problem Driver Pointer System; Reopening of Comment Period

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: This notice reopens the comment period on a notice of proposed rulemaking published April 4, 1990, regarding procedures for participating in and receiving data from the National Driver Register Problem Driver Pointer System. The comment period closed on May 21, 1990. NHTSA received two petitions asking that the comment period be extended to allow commenters more time to properly evaluate and develop a position on the proposals. NHTSA has

concluded that because it is vitally important that those affected by the rule understand the impact of the proposals on their particular areas of interest, and that meaningful comments be received from these parties, it would be in the best interest of all concerned to reopen the comment period. Accordingly, the comment period for the notice of proposed rulemaking is reopened until October 1, 1990.

DATES: The comment period for Docket No. 84-02; Notice 6 is reopened so that it closes October 1, 1990.

ADDRESSES: Comments should refer to Docket No. 84-02 and be submitted to: Docket Section, Room 5109, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (Docket hours are 8:00 a.m. to 4:00 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Clayton E. Hatch, Chief, National Driver Register (NTS-24), 400 Seventh Street, SW., Washington, DC 20590 (202-366-4800).

SUPPLEMENTARY INFORMATION: NHTSA published a notice of proposed rulemaking regarding the procedures for participating in and receiving data from the National Driver Register Problem Driver Pointer System (PDPS) at 55 FR 12509, April 4, 1990. The comment period for that proposal closed on May 21, 1990.

NHTSA received two petitions asking that the comment period be extended beyond May 21. The first petition, filed by the American Association of Motor Vehicle Administrators (AAMVA), asked that the comment period be extended until October 1, 1990. The reasons offered in support of the extension were that more time was needed to reach a consensus among member jurisdictions and that analysis in two areas is needed: (1) The effectiveness of the use of the PDPS service, as proposed, in the driver license issuance process (e.g., the maintenance of the driver license status indicator on the NDR file as proposed may be a detriment to providing accurate up-to-date information) and (2) the ease of implementation (e.g., the need for design changes so that while States are implementing the requirements of the Commercial Motor Vehicle Safety Act of 1986, that work will assist in implementation of PDPS). The AAMVA proposes to use their regional and international conferences, to be held over the next several months, as a forum for this development and endorsement process.

The second petition, filed by the National Driver Register Advisory Committee, asked that the comment period be extended until the end of September, 1990. The reason offered in support of this request was that more

time is needed to allow the States to gain a full understanding of the effects of the proposed procedures and to present meaningful comment; also that it is particularly important that the international meeting of the AAMVA take place before the comments are submitted because this will be the AAMVA's first opportunity, after issuance of the NPRM, to meet as an entire body.

NHTSA carefully considered these requests, bearing in mind that it is under a statutory mandate to proceed expeditiously with this rulemaking. NHTSA agrees that reopening the comment period will grant the AAMVA the time needed for its members, who will be the major participants in the PDPS, to examine the effects of the proposed procedures on their licensing systems and to develop meaningful comments. We believe that this process of dialogue and consensus among the State driver licensing jurisdictions will enhance the prospects of eventual participation by all States. In addition, we expect that, by allowing this extra time now and affording the States an opportunity to provide more informed and considered comments to our proposal, the States will avoid delay and meet the criteria to participate in PDPS more quickly in the future.

Authority: Pub. L. 97-364, 96 Stat. 1740 (23 U.S.C. 401 Note); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: June 26, 1990.

Adele Derby,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 90-15306 Filed 6-29-90; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. R-90-1484; FR-2745-C-02]

RIN 2502-AE81

Annual Rent Adjustments for Section 8 Assisted Housing; Retroactive Housing Assistance Payments

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule; correction.

SUMMARY: This correction to the proposed rule, published by HUD on June 19, 1990 (55 FR 25054), would

amend certain sections of that rule to include as eligible for retroactive housing assistance payments owners of Moderate Rehabilitation projects whose contract rents were reduced or limited by use of a comparability study from October 1, 1979 until the effective date of the rule. This document also corrects the date on which public comments to the rule are due.

DATES: Comments due: August 20, 1990.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.-5:30 p.m. Eastern Time) at the above address. As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 708-4337. (This is not a toll-free number.) Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk ((202) 708-2084).

FOR FURTHER INFORMATION CONTACT: Lawrence Goldberger, Office of Elderly and Assisted Housing, Room 6130, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-0720; TDD number for the hearing- and speech-impaired (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On June 19, 1990 (55 FR 25054), HUD published a proposed rule that would implement section 801 (a) and (d) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989) (Reform Act). The rule would provide the criteria under which eligible Section 8 project owners may receive retroactive housing assistance payments and one-time contract rent determinations.

Under the proposed rule, a project owner would be eligible for retroactive payments if, for the period from October 1, 1979 until the effective date of the rule, the use of comparability studies as

an independent limitation on annual rent adjustments resulted in the reduction of rents or the failure to increase the rents to the entire amount permitted by the Annual Adjustment Factors. Owners whose contracts require them to request annual rent adjustments who certify that they did not request such adjustments in any year or years during the same period because they anticipated reductions in rents are also eligible for retroactive payments.

The rule, as published on June 19, 1990, failed to include owners of Moderate Rehabilitation projects who fit into the first category of eligible owners, described above. Therefore, the Department is publishing corrections to various sections of the proposed rule to include that category of owners as eligible for retroactive payments and one-time contract rent determinations.

The proposed rule erroneously gave a 30-day public comment period to July 19, 1990. The Department is allowing a 60-day comment period on the rule, and will accept comments through August 20, 1990.

Accordingly, the proposed rule amending 24 CFR part 888, published June 19, 1990 at 55 FR 25054, is corrected to read as follows:

PART 888—[AMENDED]

1. On page 25060, in the second column, § 888.401(c) of the proposed rule is correctly added to read as follows:

§ 888.401 Purpose and scope.

(c) *Eligible project owners.* Project owners may be eligible for retroactive payments if, during the period from October 1, 1979 to July 2, 1990.

(1) The use of a comparability study by the Contract Administrator, which was conducted as an independent limitation on the amount of rent adjustment that would have resulted from use of the applicable AAF, resulted in the reduction of the maximum monthly Contract Rents for units covered by a Housing Assistance Payments (HAP) contract or resulted in less than the maximum increase for those units than would otherwise be permitted by the AAF; or

(2) The project owner certifies that a request for an annual rent adjustment was not made because of an anticipated reduction of the maximum monthly Contract Rents resulting from a comparability study.

2. On page 25060, in the second column, § 888.405(a) is correctly added to read as follows:

§ 888.405 Amount of the retroactive Housing Assistance Payments.

(a) *Recalculating the total rent adjustment.* To establish the amount of the retroactive HAP payment for which a project owner meeting the criteria in § 888.401(c) is eligible, the total rent adjustment will be recalculated for the period from October 1, 1979 to July 2, 1990.

Rents for that period will be recalculated, under the procedures set out in 24 CFR 882.410(a)(1), by applying the applicable AAF for any affected year, and recalculating the rents for the remainder of the period as necessary.

3. On page 25061, in the first column, the first sentence in § 888.410(b)(2) is correctly added to read as follows:

§ 888.410 Notice of eligibility for retroactive payments.

(b) *Request for payment.* * * *

(2) Owners claiming eligibility under § 888.401(c)(2) must certify that a request was not made because of an anticipated reduction in the Contract Rents as a result of a comparability study. * * *

Dated: June 27, 1990.

C. Austin Fitts,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 90-15333 Filed 6-29-90; 8:45 am]

BILLING CODE 4210-27-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3282

[Docket No. R-90-1483; FR-2613-P-01]

RIN 2502-AE65

Distribution of Manufactured Home Monitoring Inspection Fees to the State Administrative Agencies

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise 24 CFR 3282.307(b) to provide for a more equitable method of distributing funds to State Administrative Agencies (SAAs) to aid them in meeting their inspection and inspection related expenses. SAAs are currently funded from label monitoring inspection fees, which provide \$12.00 for each manufactured home sited in their State. The method of payment to the SAAs is

established by means of a formula specified in 24 CFR 3282.307(b), and has not changed since the inception of the program in 1976. A modified formula for distributing funds to the States is necessary to provide a more equitable compensation to each State, based on the nature and volume of work-load required of their SAA.

DATES: Comments due date August 31, 1990.

ADDRESSES: Interested persons are invited to submit comments regarding this rule (Notice) to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 708-4337. (This is not a toll-free number.) Only public comments of six or fewer total pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk ((202) 708-2084).

FOR FURTHER INFORMATION CONTACT: Stuart Margulies, Program Analyst, Manufactured Housing and Construction Standards Division, Room 6270, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410-8000. (202) 708-0584. The TDD number is (202) 708-4594. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On January 17, 1989 (54 FR 1689), HUD published a Notice of an increase in the manufactured home monitoring inspection fee from \$16 for each transportable section to \$24, effective February 2, 1989. The Notice also described two specific components making up the manufactured home fee increase of \$8.00.

\$5.00 was earmarked to maintain the current level of support for the ongoing enforcement program. As expenses exceeded income received from the fee collections, the available balance in the account would be depleted. The income

received from the incoming fees is distributed to (1) HUD, to compensate for salaries and expenses for employees involved in inspection-related activities; (2) HUD's Contractor; and (3) the SAAs, based on the current payment formula established in § 3282.307(b).

The remaining amount (\$3.00 per floor) was to provide increased funding to the SAAs. The monitoring that SAAs perform is described in 24 CFR part 3282, the National Manufactured Home Procedural and Enforcement Regulations. The regulations provide for notification by the manufacturer to a class of homeowners with noncomplying or defective homes, or the corrections of homes with serious defects or imminent safety hazards.

The self-regulating mechanism of these regulations requires the manufacturer to make determinations regarding notification and correction and to maintain records of those determinations at the manufacturing facility. Monitoring these activities requires an SAA to perform investigations to determine whether the manufacturer has complied with regulatory requirements. Primarily, this is done by periodically checking the records that the manufacturers are required to maintain.

The present funding formula found in § 3282.307(b) prescribes payments to the SAAs based on the unit's first location. The Department has established, in each SAA's Cooperative Agreement with HUD, an amount of \$12.00 to be distributed to the SAA for each unit sited as its first location within that State.

Present funding provides necessary resources for SAAs to assist consumers within their own States. However, it does not account for other inspection-related activities, or for the heavy workload of States with manufactured housing plants that produce and export a large volume of homes to other States. Several SAAs have reported substantial net losses in performing their responsibilities under the Federal manufactured housing program. Consequently, many of these SAAs have not been able to function effectively. The increase of \$3.00 per floor received from the fee will be used to provide needed funding to carry out inspection-related activities of the States.

II. Suggestions of Affected SAAs

By letter dated January 24, 1989, the Department notified the SAAs that it intended to modify the current method used in funding the SAAs by distributing a portion of the additional funds to the States. The Department informed the SAAs that the funds will be distributed

in a manner that will address the heavier workload involved in States with manufacturing plants. The Department requested, in this letter, that SAAs wishing to offer comments on the intended rule change should submit their comments to the Department. Comments were received from four SAAs.

The Pennsylvania SAA stated that the State of Pennsylvania, as a State exporting a large amount of manufactured homes, is in need of added funds to compensate for the heavier workload involved in carrying out its SAA functions.

The Maryland SAA stated that it has also continued to experience increased costs, with present Federal funding representing a decreasing percentage of overall funding of the State's SAA function. The SAA recommended that the additional amount funded be at least the proposed increase of \$3.00 per transportation section. The SAA further added that certain HUD-suggested SAA functions (e.g., dealer lot monitoring) cannot be justified economically under the present—or even under the proposed—fee schedule.

The Arkansas SAA suggested that HUD establish a separate fund to assist States wishing to attend normal SAA meetings, and for scheduling additional SAA meetings with the Department. [At every recent SAA and Production Inspection Primary Inspection Agency (PIA) meeting, participants have expressed the need for more training and communication between the States and HUD]. The amount reserved for this purpose would be derived from withholding \$.50 or \$1.00 per label of the additional SAA funds. HUD and the States could then establish how these funds would be disbursed.

The Arizona SAA stated that it was difficult for its representatives to travel out-of-state because the funding received is placed in the State Treasury and is not appropriated for that function. It suggested that a fund be set aside for the purpose of facilitating out-of-state travel and other joint activities not generally funded. It also suggested that a formula based on production be added to 24 CFR 3282.307(b) to compensate those States with manufactured home plants.

Many SAAs have, in the past, expressed these same concerns and have indicated the need for enhanced funding to provide for greater programmatic enforcement education, inspections and related activities not covered by the present funds. The State Task Force on Manufactured Housing for the National Conference of States on Building Codes and Standards

(NCSBCS) recommended certain educational activities be funded to provide the necessary training and support to enhance inspection programs in each of the States participating in the program.

There has also been discussion regarding a change in the distribution formula to an exact dollar amount or an amount based on a percentage of what is collected. It was pointed out that the present regulation provides no defined amount of distribution and is general, if not ambiguous, in nature.

A distribution by a dollar amount or by percentage would provide a more definite form of distribution. After considering this proposal, the Department has adopted and incorporated in this proposed rule a distribution formula based on the percentage of the fees collected for each transportable section. The percentage formula, as opposed to an exact dollar amount, was incorporated because it provides a more defined form of distribution than the present formula, yet still allows the Department flexibility in adjusting the amount of the monitoring fee collected from the manufacturers.

Because the Department proposes to distribute fees by a percentage formula, the Department proposes to change the distribution based on completed units to a distribution based on transportable sections. Since the fees are collected by transportable section, it would be administratively accommodating to distribute them in the same manner. By distributing funds based on floors, the Department can distribute a percentage of each label fee collected. Moreover, in a number of States, the majority of homes received are multi-section homes. Under the current system, which distributes the funds per unit, these States receive a smaller amount of the fees collected per transportation section relative to States who receive a majority of their homes as single-section homes. This loss of additional funds is particularly important because consumer complaints involving multiple section homes are generally more difficult to investigate and resolve. In order to create a more equitable distribution of the actual funds collected, distribution should be by floors.

III. Explanation of Changes Proposed

As indicated in the background section, the Department has established, in each SAA's Cooperative Agreement with HUD, an amount of \$12.00 to be distributed to the SAA for each unit sited as its first location within that State.

As an example, if the State of Nebraska receives 100 units in a specific month, it receives, as an SAA, \$1,200 ($\12.00×100 units sited in its State.)

The Department proposes to amend the method of distributing fees to the States by establishing a fee distribution formula based on a percentage of the fee assessed manufacturers for the purchase of a label to be placed on each transportable section of each manufactured housing unit. As a result of the Department's publication of January 17, 1989 (54 FR 1689), the present fee assessed manufacturers for each labeled floor is \$24.00.

The 35 State Administrative Agencies (SAAs) currently are receiving a cumulative sum of approximately \$2.3 million annually. ($\$12 \times 190,467$ units = \$2,285,604.)

HUD's January 17, 1989 Notice specified that the Department intended to increase funding to the SAAs to help defray the cost of administering the program. The additional amount specified was \$3.00 per floor. The number of transportation sections which comprise the 190,467 units currently sited in the 35 participating States is estimated to be 307,537 sections, which, when multiplied by the \$3.00 per floor figure, equals \$922,611. Adding \$922,611 to the \$2,285,604 now distributed to the SAAs totals \$3,208,215. The Department also intended to use approximately \$200,000 of this dollar amount to increase SAA program participation in workshops and other inspection-related activities, thereby assisting those States that do not possess manufactured home plants and will not benefit monetarily from the implementation of this rule. Therefore, the final dollar amount, as a result of the January 17, 1989 (54 FR 1689) notice, estimated to be distributed directly to the 35 States by means of utilizing a new formula is approximately \$3,000,000.

The Department also specified in its January 17, 1989 Notice that it intended to modify the distribution of a portion of the added fund to the States in a manner that would address the heavier workload in States with manufacturing plants that produce a large volume of homes. Therefore, in estimating the percentage of fees collected from manufacturers to be distributed to the States, the Department evaluated and incorporated a two-formula distribution system. One funding formula is predicated on where the home will first be located, and the second formula predicated on where the home is to be produced.

After evaluating these considerations, the Department estimated that a distribution formula based on a 36% to

8% ratio would be the most appropriate and feasible ratio for distributing fees to the States. The distribution of fees using this ratio would be administered as follows: 36% of each label assessment received (currently \$24.00 per label $\times 36\% = \$8.64$), would be distributed to each State for each transportable section of each home first located in the State. In addition, 8% of each label assessment placed on each transportable section of each unit produced in the State ($\$24.00 \times 8\% = \1.92) would be distributed to the State where the home will be produced.

The dollar sum of \$8.64 times 279,914 sections of homes estimated to be sited annually in the 35 participating States equals \$2,418,457. The dollar sum of \$1.92 times the 310,712 sections of homes estimated to be produced in the 35 participating SAA States equals \$596,567. Adding the two dollar sums of \$2,418,457 and \$596,567 equals \$3,015,024, which, when utilizing these two percentage-based distribution formulas, is the total dollar amount estimated to be distributed annually to the 35 participating States. This \$3,015,024 amount, therefore, approximates the \$3,000,000 figure resulting from January 17, 1989 (54 FR 1689) notice.

Under this new formula, a substantial majority of the States will be receiving increased funding. Several SAA States, however, possess few or no manufacturing facilities. These states—especially the ones predominantly receiving single-section homes, would receive slightly less income with the implementation of the new formula. It is estimated that seven states—Arkansas, Iowa, Kentucky, Louisiana, Maine, Missouri and New York—would experience reduced fee income, ranging from less than a 3 percent reduction (Kentucky, Louisiana and Missouri) to about a 10 percent reduction (Iowa and Maine). Arkansas would experience approximately a 5 percent reduction, and New York about 6.5 percent. The maximum dollar loss for any participating SAA State would be approximately \$6200. Further consideration will be given to modifying § 3282.307(a) to allow States that are fully approved (see § 3282.302) to assess their own State-sponsored fees to defray those expenses that exceed the Federal funds received. A State participating as an SAA must provide satisfactory assurance that it will devote adequate funds in carrying out its State plan (see § 3282.302(b)(12)). In formulating the distribution to the States predicated on the number of sections produced in each

State, the Department wanted to generate a dollar income sufficient to enhance the States' SAA capabilities to monitor manufacturer performance. A percentage lower than the 8% selected would generate only a marginal effect, and bring into question the need to implement a new production-side formula. Thus, the increased funding to the States based on an 8% production formula was estimated to be the lowest percentage which, if utilized, would generate the minimum dollar income needed to implement a new production-side formula. Thus, the increased funding to the States based on an 8% production formula was estimated to be the lowest percentage which, if utilized, would generate the minimum dollar income needed to administer that production aspect of the Federal program.

The Department also intends to modify certain provisions of the existing Cooperative Agreements with the States. The modification will provide a basis for evaluating the performance of the States and permit the Department to implement certain specified actions in the event that States do not comply with the terms of the agreement. The Department has, therefore, added the phrase, "pursuant to an agreement between the Secretary and the States", in 24 CFR 3282.307(b).

The Department will continue to provide funding for the Joint Team Monitoring Program set out in § 3282.308. This provision remains in the rule. However, it will be redesignated as paragraph (c).

III. Other Matters

In accordance with 24 CFR 50.20(l), the subject matter of this rule is categorically excluded from the requirement of an environmental finding under the National Environmental Policy Act. The subject matter is limited to the manner in which inspection fees will be distributed, and does not involve a developmental decision affecting the physical condition of specific project areas or building sites.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicated that it does not (1) have annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovations, or the ability

of United States-based enterprises to compete with foreign-based enterprises in domestic export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because it will only affect the 35 SAAs participating in the program, of which only 8 SAAs are estimated to receive an additional annual income of \$50,000 or more.

This rule is listed as item 1167 in the Department's semiannual agenda of regulations published on April 23, 1990 (55 FR 16226, 16245), under Executive Order Act 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 3282

Administrative practice and procedure; Consumer protection; International relations; Investigations; Manufactured home.

Accordingly, the Department proposes to amend 24 CFR part 3282, as follows:

PART 3282—[AMENDED]

1. The authority citation of part 3282 would be revised to read as follows:

Authority: Section 825, National Manufactured Housing Construction and Safety Standards Act (42 U.S.C. 5424); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535, (d)).

2. Section 3282.307(b) would be revised to read as follows:

§ 3282.307 Monitoring Inspection Fee—established and distributed.

(b) The monitoring inspection fee shall be paid by the manufacturer to the Secretary or the Secretary's Agent, who shall distribute a portion of the fees collected from all manufactured home manufacturers among the approved and conditionally-approved States pursuant to an agreement between the Secretary and the States and based upon the following formulas:

(1) 36% of the monitoring inspection fee collected for each transportable section of each new manufactured housing unit that, after leaving the manufacturing plant, is first located on the premises of a distributor, dealer, or purchaser in that State; plus

(2) 8% of the monitoring inspection fee collected for each transportable section of each new manufactured housing unit produced in a manufacturing plant in that State.

A portion of the monitoring inspection fee collected shall also be distributed by the Secretary or the Secretary's Agent based on the extent of participation of

the State in the Joint Team Monitoring Program set out in § 3282.308.

Dated: June 7, 1990.

Peter Monroe,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 90-15155 Filed 6-29-90; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Alabama Abandoned Mine Land Reclamation Program Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On April 30, 1990, the State of Alabama submitted to OSM a proposed amendment to its Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter referred to as the Alabama Plan). The amendment would allow the State to assume responsibility for an emergency response reclamation program in the State. This notice sets forth the times and locations that the Alabama Plan and proposed changes will be available for public inspection, the comment period during which interested persons may submit written comments, and the procedures that will be followed regarding a public hearing.

DATES: Written Comments: OSM will accept written comments on the proposed rule until 4 p.m. on August 1, 1990. Comments received after that date will not necessarily be considered in the decision process.

Public Hearing: A public hearing on the proposed Alabama Plan amendment may be scheduled based on public inquiries concerning the amendment. Any person interested in making an oral or written presentation at a hearing should contact Robert A. Penn at the OSM Birmingham Field Office during the public comment period. If only one person has so contacted Robert A. Penn, a meeting rather than a hearing may be held. A summary report of the meeting will be included in the Administrative Record.

ADDRESSES: Written comments and requests for a hearing should be mailed to: Robert A. Penn, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 280 West Valley Avenue, Birmingham, Alabama 35209. Copies of

the Alabama Plan, the proposed changes to the Plan, and the administrative record of the Alabama Plan are available for public review and copying at the OSM Office and the State Abandoned Mine Lands Office listed below, Monday through Friday, from 9 a.m. to 4 p.m. excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting the OSM Birmingham Field Office.

Alabama Department of Industrial Relations, Abandoned Mine Lands Program, 649 Monroe Street, Montgomery, Alabama 36130, Telephone: (205) 242-8265.

OSM's Field Office Processing Amendment:

Office of Surface Mining Reclamation and Enforcement, Birmingham Field Office, 280 West Valley Avenue, room 302, Birmingham, Alabama 35209, Telephone: (205) 731-0953

Office of Surface Mining Reclamation and Enforcement, Administrative Records Office, 1100 L Street, NW., room 5205, Washington, DC 20240

FOR FURTHER INFORMATION CONTACT: Jean W. O'Dell, AML Program Specialist, Birmingham Field Office, (205) 731-0953.

SUPPLEMENTARY INFORMATION:

I. Background

II. Discussed of Proposed Amendment

III. Procedural Matters

I. Background

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Public Law 95-87, 30 U.S.C. 1202 *et seq.*, establishes an AMLR program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and waters eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law. Title IV provides that a State with an approved AMLR program has the responsibility and primary authority to implement the program.

The Secretary of the Interior approved the Alabama AMLR Plan on May 20, 1982. Information pertinent to the general background, revisions, and amendments to the initial plan submission, as well as the Secretary's findings and the disposition of comments can be found in the May 20, 1982, *Federal Register* (47 FR 22062).

Information concerning the previously approved plan and the proposed amendments may be obtained from the agency offices listed under "ADDRESSES."

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR part 884). The regulations provide that a State may submit to the Director proposed amendments or revisions to the approved reclamation plan. If the amendments or revisions change the scope or major policies followed by the State in the conduct of its reclamation program, the Director must follow the procedures set out in 30 CFR 884.13 in approving or disapproving an amendment or revision.

II. Discussion of Proposed Amendment

On September 29, 1982, OSM published guidelines for State Emergency Programs which described the necessary requirements for a State to assure emergency responses authority (47 FR 42729).

By letter dated April 25, 1990, Alabama submitted a reclamation plan amendment to OSM (Administrative Record No. AL-0452) regarding the creation of an emergency response program. The proposed amendment consists of revised narratives to replace several sections of the approved Alabama Plan as provided for by 30 CFR 884.13. Specifically, the Plan is being revised to provide for the establishment of a State-administered emergency response reclamation program.

OSM is seeking comments on the adequacy of the Alabama proposed amendment as set forth in 30 CFR 884.15. If approved, the amendment would become part of the Alabama Abandoned Mine Land Reclamation Plan.

III. Procedural Matters.

1. Federal Paperwork Reduction Act: This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507 *et seq.*

2. Executive Order No. 12291 and the Regulatory Flexibility Act: On October 4, 1985, the Office of Management and Budget (OMB) granted OSM and exemption from section 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or disapproval of State reclamation plans or amendments. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have

a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). No burden would be imposed upon entities operating in compliance with the Act.

3. Compliance with the National Environmental Policy Act: Approval of State AMLR plans and amendments is categorically excluded from compliance with the National Environmental Policy Act by the Department of the Interior's Manual, 516 DM 2, p. B-1.

4. Author: The principal author of this rule is Jean W. O'Dell, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 280 West Valley Avenue, room 302, Birmingham, Alabama 35209. Telephone: (205) 731-0953, (FTS 229-0953).

List of Subject in 30 CFR Part 884

Coal Mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 22, 1990.

Harry M. Snyder,
Director, Office of Surface Mining
Reclamation and Enforcement.

[FR Doc. 90-15291 Filed 6-29-90; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 935

Ohio Permanent Regulatory Program; Revision of Administrative Rules; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; correction.

SUMMARY: OSM is correcting an error in the proposed rule notice announcing receipt of proposed Ohio Program Amendment Number 44 published on Tuesday, June 5, 1990 (55 FR 22931). This notice corrects an inadvertent typographical error which occurred in the "DATES" section of the proposed rule.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, 2242 South Hamilton Road, room 202, Columbus, Ohio 43232; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION: The deadline for requests to present oral testimony at the hearing was inadvertently published as July 2, 1990, instead of June 20, 1990. To correct this error, and to provide the public with sufficient time to request a public hearing, the dates will be revised. On page 22931 of the June 5, 1990, notice,

third column, the paragraph labeled "DATES" should read as follows:

DATES: Written comments must be received on or before 4 p.m. on July 12, 1990. If requested, a public hearing on the proposed amendments will be held at 1 p.m. on July 12, 1990. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on July 2, 1990.

Dated: June 22, 1990.

Ronald C. Recker,

Acting Assistant Director, Eastern Field Operations.

[FR Doc. 90-15294 Filed 6-29-90; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50581; FRL-3738-5]

RIN 2070-AB27

Proposed Significant New Uses of Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for several chemical substances which were the subject of premanufacture notices (PMNs), and are subject to TSCA section 5(e) consent orders issued by EPA. In addition EPA is proposing an amendment to Subpart B of 40 CFR Part 721—Significant New Uses of Chemical Substances. Today's proposal would require certain persons who intend to manufacture, import, or process these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing activity designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur. The proposal to amend subpart B would add standard language to be used to designate significant new uses of chemical substances.

DATES: Written comments must be submitted to EPA by August 1, 1990.

ADDRESSES: Since some comments may contain confidential business information (CBI), all comments must be sent in triplicate to: TSCA Document Receipt Office (TS-790), Office of Toxic Substances, Environmental Protection

Agency, Room E-105, 401 M St., SW., Washington, DC 20460.

Comments should include the docket control number. The docket control number for each of the new chemical substances covered in this SNUR is OPTS-50581, followed by the last four digits of the number of the proposed CFR section covering that chemical substance. Nonconfidential versions of comments on this proposed rule will be placed in the rulemaking record and will be available for public inspection. Unit X. of this preamble contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT:

Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-543-B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: This proposed SNUR would require persons to notify EPA at least 90 days before commencing any activity designated by this SNUR as a significant new use. The supporting rationale and background to this rule are more fully set out in the preamble to EPA's first SNURs issued under the Expedited Follow-Up Rule and published at 55 FR 17376 on April 24, 1990. Consult that preamble for further information on the objectives, rationale, and procedures for the rules and on the basis for significant new use designations including provisions for developing test data. The proposed amendment to Subpart B will add standard language to § 721.72 (hazard communication program) which will be used to designate certain activities as significant new uses.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.10.

II. Applicability of General Provisions

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons

subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of rule to uses occurring before the effective date of the final rule. Rules on user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5(d)(1) and 5(b), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under sections 5(e), 5(f), 6, or 7 to control the activities on which it has received the SNUR notice. If EPA does not take action, EPA is required under section 5(g) to explain in the Federal Register its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

III. Proposed Amendment to 40 CFR Part 721 Subpart B

EPA is proposing an amendment to § 721.72 (hazard communication program). This section establishes EPA's workplace hazard communication program and is cited when EPA determines it is necessary to inform workers of hazards and exposures in the workplace and how to protect themselves from these hazards. Section 721.72(g) provides standard language that EPA generally specifies for labels and material safety data sheets ("MSDSs"). The standard language in § 721.72(g) currently provides for the same hazard and precautionary statements on both the labels and MSDSs for a substance. In most cases, this is consistent with the terms of consent orders EPA issues under section 5(e). However, some section 5(e) orders require different statements on the label and MSDS. The significant new uses proposed in this rule would add a new paragraph (h) to § 721.72 to match the terms of such section 5(e) orders. The proposed amendment would allow EPA to include in a SNUR requirement for different hazard and precautionary statements on labels and MSDSs.

The proposed amendment would also establish additional precautionary statements for labels and MSDSs not currently designated in § 721.72: (a) The health effects of this chemical substance have not been determined; (b) when

using this substance, use skin protection; (c) use respiratory protection when there is a reasonable likelihood of exposure in the work area from dust, mist, or smoke from spray application; and (d) chemicals similar in structure to this substance have been found to cause cancer in laboratory animals.

IV. Substances Subject to This Proposed Rule

EPA is proposing significant new use and recordkeeping requirements for the following chemical substances under § 721 subpart E. The basis for each section 5(e) order is a finding under section 5(e)(1)(A)(i) and (ii)(I) of TSCA that the information available to the Agency is insufficient to permit a reasoned evaluation of the substance and that in light of the potential risk of human health effects posed by the substance, that the uncontrolled manufacture, import, processing, distribution in commerce, use, or disposal of the substance may present an unreasonable risk of injury to human health. The toxicity concern for each substance is that similar substances have been shown to cause cancer in test animals. The recommended testing for each substance is a 2-year two-species rodent bioassay according to 40 CFR 798.3300. Because this information is identical for each substance, it is not repeated in the descriptions below (with the exception of P-84-713, P-84-423, and P-84-424, where additional information is supplied concerning the toxicity and recommended testing). To determine what would constitute significant new uses of these substances, EPA considered relevant information about the toxicity of the substances, likely exposures associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA.

The specific uses which are proposed to be designated as significant new uses are cited in the regulatory text section of this rule. The requirements specified by these citations will be found in 40 CFR 721.50 through 91, subpart B of part 721. Subpart B was published in the Federal Register of July 27, 1989 (54 FR 31298). Certain new uses, including production limits and other uses designated in the rule are also claimed as CBI. The procedure for obtaining confidential information is set out in Unit VII.

EPA previously proposed SNURs for chemical substances submitted as P-84-27 and P-84-274 (P-84-27 at 49 FR 49863 on December 12, 1984 and P-84-274 at 50 FR 34505 on August 26, 1985) but is repropounding here because EPA and the submitters of the PMNs have modified the terms of these consent orders. EPA and the submitters of P-84-713, 84-814,

85-296, 85-298, 85-301, 85-1013, 85-1169, 85-1170, 86-346, 86-554, 86-588, 86-832, 87-930, 87-931, and 88-2463 have also modified the terms of their respective consent orders. Comments regarding the proposed SNURs or, in the case of 84-27 and 84-274, repropounded SNURs should reflect the modified terms of each consent order. The regulatory text designations at § 721.72(h) for these substances depend on promulgation of the accompanying subpart B amendment. The PMN number, the chemical name (generic name if the specific name is claimed as CBI), the CAS number (if available), the effective date of the 5(e) order, and the CFR citation assigned in the regulatory text section of this proposal are described for each specific chemical substance below.

PMN Number P-84-27

Chemical name: (generic) Polyol carboxylate ester.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: April 9, 1984.

CFR Citation: 40 CFR 721.1710.

PMN Number P-84-274

Chemical name: Poly(oxy-1,4-butanediyl), α -(1-oxo-2-propenyl)- ω -[(1-oxo-2-propenyl)oxy]-.

CAS Number: 52277-33-5.

Effective date of section 5(e) Consent Order: April 18, 1984.

CFR Citation: 40 CFR 721.1770.

PMN Number P-84-713

Chemical name: (generic) Alkoxyated alkane polyol, polyacrylate ester.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: November 17, 1987.

Basis for section 5(e) Order: The Order was issued under section 5(e)(1)(A)(i) and (ii)(I) of TSCA based on the finding that this substance may present an unreasonable risk of injury to human health and the environment.

Toxicity Concerns: Similar substances have been shown to cause cancer in test animals and toxicity to aquatic organisms.

Recommended Testing: A 2-year two-species oral rodent bioassay according to 40 CFR 798.3300 to address potential health effects. Acute toxicity studies in algae (40 CFR 797.1050), daphnids (40 CFR 797.1300), and fish (40 CFR 797.1400), a chronic toxicity study in daphnids (40 CFR 797.1330), and an early life stage toxicity test in fish (40 CFR 797.1600) to address potential environmental effects. The PMN submitter has agreed not to exceed the production volume limits without performing the aquatic toxicity studies.

CFR Citation: CFR 40 721.1715.

PMN Number P-84-814

Chemical name: (generic)

Polysubstituted polyol.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: June 18, 1985.

CFR Citation: 40 CFR 721.1714.

PMN Numbers P-85-296 and P-85-298

Chemical name: (generic) Amino acrylate monomer.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: February 3, 1986.

CFR Citation: 40 CFR 721.278.

PMN Number P-85-301

Chemical name: (generic) Urethane acrylate.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: June 8, 1985.

CFR Citation: 40 CFR 721.2555.

PMN Number P-85-1013

Chemical name: (generic) Aliphatic diurethane acrylate ester.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: April 2, 1986.

CFR Citation: 40 CFR 721.273.

PMN Numbers P-85-1169 and P-85-1170

Chemical name: (generic) Acid modified acrylated epoxide.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: April 12, 1986.

CFR Citation: 40 CFR 721.960.

PMN Number P-86-346

Chemical name: (generic) Substituted acrylated alkoxyated aliphatic polyol.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: June 10, 1986.

CFR Citation: 40 CFR 721.1740.

PMN Number P-86-554

Chemical name: Poly(oxy-1,2-ethanediyl), α -(1-oxo-2-propenyl)- ω -hydroxy-, C₁₀₋₁₆-alkyl ethers.

CAS Number: 125304-11-2.

Effective date of section 5(e) Consent Order: September 8, 1986.

CFR Citation: 40 CFR 721.1780.

PMN Number P-86-588

Chemical name: Poly(oxy-1,2-ethanediyl), α -(2-methyl-1-oxo-2-propenyl)- ω -hydroxy-, C₁₀₋₁₆-alkyl ethers.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: September 8, 1986.

CFR Citation: 40 CFR 721.1778.

PMN Number P-86-832

Chemical name: Reaction product of hydroxyethyl acrylate and methyl oxirane.

CAS Number: 60857-97-8.

Effective date of section 5(e) Consent Order: July 2, 1987.

CFR Citation: 40 CFR 721.1500.

PMN Number P-87-930

Chemical name: 2-Propenoic acid, 2-hydroxybutyl ester.

CAS Number: 2421-27-4.

Effective date of section 5(e) Consent Order: March 29, 1989.

CFR Citation: 40 CFR 721.1810.

PMN Number P-87-931

Chemical name: 2-Propenoic acid, 1-(hydroxymethyl)propyl ester.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: March 29, 1989.

CFR Citation: 40 CFR 721.1814.

PMN Number P-88-701

Chemical name: (generic) Reaction product of a monoalkyl succinic anhydride with an ω -hydroxy methacrylate.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: March 23, 1990.

CFR Citation: 40 CFR 721.1282.

PMN Number P-88-2380

Chemical name: (generic) Bisphenol A, epichlorohydrin, methylenebis(substituted carbomonocycle), polyalkylene glycol, alkanol, methacrylate polymer.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: March 20, 1990.

CFR Citation: 40 CFR 721.607.

PMN Number P-88-2463

Chemical name: (generic) Trimethylolpropane fatty acid diacrylate.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: April 11, 1989.

CFR Citation: 40 CFR 721.1045.

PMN Number P-88-2566

Chemical name: (generic) Substituted oxide-alkylene polymer, methacrylate.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: January 2, 1990.

CFR Citation: 40 CFR 721.1290.

PMN Number P-89-73

Chemical name: (generic) Polymer of alkyl carbomonocycle diisocyanate with alkanepolyol polyacrylates.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: March 6, 1990.

CFR Citation: 40 CFR 721.1612.

PMN Number P-89-77

Chemical name: (generic) Alkenyldicarboxylic acids, polymers with alkanepolyol and TDI, alkanol blocked, acrylate.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: March 6, 1990.

CFR Citation: 40 CFR 721.275.

PMN Number P-89-422

Chemical name: (specific) 2-Propenoic acid, 2-methyl-, 1,1-dimethylethyl ester. (synonym) *t*-Butyl methacrylate.

CAS Number: 585-07-9.

Effective date of section 5(e) Consent Order: December 8, 1989.

CFR Citation: 40 CFR 721.1818.

PMN Number P-89-423

Chemical Name: (Generic) Polyalkylpolysilazane, bis(substituted acrylate).

CAS Number: Not available.

Effective date of section 5(e) Consent Order: March 19, 1990.

Toxicity Concern: Similar substances have been shown to cause cancer and adverse lung effects in test animals.

Recommended Testing: A 2-year, two-species rodent bioassay according to 40 CFR 798.3300, performed via the inhalation route of exposure, to characterize possible carcinogenicity and lung toxicity of the substance.

CFR Citation: 40 CFR 721.1617.

PMN Number P-89-424

Chemical Name: (generic) Carbamic acid, (trialkylloxysilylalkyl)-substituted acrylate ester.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: March 19, 1990.

Toxicity Concern: Similar substances have been shown to cause cancer and adverse lung effects in test animals.

Recommended Testing: A 2-year, two-species rodent bioassay according to 40 CFR 798.3300, performed via the inhalation route of exposure, to characterize possible carcinogenicity and lung toxicity of the substance.

CFR Citation: 40 CFR 721.767.

PMN Number P-89-507

Chemical name: (generic) Hydroxyalkyl methacrylate, alkyl ester.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: January 26, 1990.

CFR Citation: 40 CFR 721.1285.

PMN Number P-89-694

Chemical name: (generic) Alkenoic acid, trisubstituted phenylalkyl disubstituted phenyl ester.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: November 14, 1989.

CFR Citation: 40 CFR 721.290.

PMN Number P-89-697

Chemical name: (generic) Alkenoic acid, trisubstituted benzyl-disubstituted phenyl ester.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: November 14, 1989.

CFR Citation: 40 CFR 721.289.

PMN Number P-89-749

Chemical name: (generic) Methylenebis(4-isocyanatobenzene), polymer with polycaprolactone triol and alkoxyated alkanepolyol, hydroxyalkyl methacrylate ester.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: December 27, 1989.

CFR Citation: 40 CFR 721.1390.

PMN Number P-89-946

Chemical name: (generic) Caprolactone, polymer with hexamethylene diisocyanate, hydroxyalkyl acrylate ester, reaction products with substituted alkenoic acid and metal heteromonocycle.

CAS Number: Not available.

Effective date of section 5(e) Consent Order: December 27, 1989.

CFR Citation: 40 CFR 721.760.

V. Objectives and Rationale of the Proposed Rule

During review of the PMNs submitted for the chemical substances that would be subject to this proposed SNUR, EPA concluded that for certain of the substances, regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health or environmental effects of the substance. The basis for such findings is outlined in Unit IV. of this preamble. Based on these findings, a section 5(e) consent order requiring the use of appropriate controls was negotiated with the PMN submitter, and the SNUR proposed for such substances is consistent with the provisions of the section 5(e) order.

EPA is proposing this SNUR for 30 specific chemical substances which have undergone premanufacture review to ensure the following objectives:

- (1) EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins.
- (2) EPA will have an opportunity to review and evaluate data submitted in a

SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use.

(3) When necessary to prevent unreasonable risks, EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs.

(4) All manufacturers, importers, and processors of the same chemical substance which is subject to a section 5(e) order are subject to similar requirements.

EPA is reproposing the SNUR for two substances, P-84-27 and P-84-274, in order to group them together with similarly regulated chemicals. Public comments were received concerning the previously proposed SNURs for these substances. However, since the time of the initial proposals, regulatory requirements in section 5(e) orders and SNURs have significantly changed. EPA has concluded that reproposing the SNURs for these two substances is appropriate.

VI. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require persons to develop any particular test data before submission of a SNUR notice. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. The studies specified in the section 5(e) order may not be the only means of addressing the potential risks of the substance. SNUR notice submitters should be aware that the Agency will be better able to evaluate SNUR notices which provide detailed information on:

(1) Human exposure and environmental release that may result from the significant new use of the chemical substances.

(2) Potential benefits of the substances.

(3) Information on risks posed by the substances compared to risks posed by potential substitutes.

VII. Procedural Determinations

EPA is establishing through this rule some significant new uses which have been claimed as CBI. EPA has decided it is appropriate to keep this information confidential to protect the interest of the original PMN submitter. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This procedure appears in 40 CFR 721.575(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the substance subject to a SNUR is CBI. This

procedure is cross-referenced in each of these SNURs.

A manufacturer or importer may request EPA to determine whether a proposed use would be a significant new use under this rule. Under the procedure incorporated from § 721.575(b)(1), a manufacturer or importer must show that it has a *bona fide* intent to manufacture or import the substance and must identify the specific use for which it intends to manufacture or import the substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or import the substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.575(b)(1) with that under § 721.11 into a single step.

VIII. Applicability of Proposed Rule to Uses Occurring Before Effective Date of the Final Rule

For a use to be a significant "new" use, EPA must determine that the use is not ongoing. When the PMN submitter begins manufacture or import of the substances, the submitter must send EPA a Notice of Commencement of Manufacture/Import and the substances will be added to the Inventory. In those cases where a section 5(e) order has been issued, the notice submitters are prohibited by the section 5(e) orders from undertaking activities which the Agency is designating as a significant new use. In addition, because most of these substances have CBI chemical identities and only a very few *bona fide* inquiries have been received for substances that have undergone PMN review, there is little chance that others are undertaking activities which the Agency is designating as a significant new use. Therefore, at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes in cases when chemical substances identified in this SNUR are added to the Inventory prior to the promulgation of the SNUR, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this proposal before promulgation of the rule.

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rules. If uses which had commenced between the date of proposal and the effective date were considered ongoing, rather

than new, any person could defeat the SNURs by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements.

Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

IX. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substances contained in this proposed rule. The Agency's complete economic analysis is available in the public record for this proposed rule (OPTS-50581).

X. Comments Containing Confidential Business Information

Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting comments claimed to be confidential must prepare and submit a public

version of the comments that EPA can place in the public file.

XI. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS-50581). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received.

EPA will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record. EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record containing nonconfidential materials is available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, located at Rm. NE-G004, 401 M St., SW., Washington, DC.

XII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule would not be a "major" rule because it would not have an effect on the economy of \$100 million or more, and it would not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be approximately \$4,500 to \$11,000, including a \$2,500 user fee payable to EPA to offset EPA costs in processing the notice.

EPA believes that, because of the nature of the rule and the substances involved, there would be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact would be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected

by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, EPA believes that the number of small businesses affected by this rule would not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information requirements contained in this proposal.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: June 23, 1990.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding new § 721.72(h) to subpart B to read as follows:

§ 721.72 Hazard communication program.

(h) *Human health, environmental hazard exposure and precautionary statements.* (1) Whenever referenced in subpart E of this part for a substance, the following human health, environmental hazard, exposure, and precautionary statements shall appear on each label as specified in paragraph (b) of this section. Additional statements may be included as long as they are true

and do not alter the meaning of the required statements.

(i) *Precautionary statements.* (A) The health effects of this chemical substance have not been determined.

(B) When using this substance, use skin protection.

(C) Use respiratory protection when there is a reasonable likelihood of exposure in the work area from dust, mist, or smoke from spray application.

(D) Chemicals similar in structure to this substance have been found to cause cancer in laboratory animals.

(ii) *Human health hazard statements.* This substance may cause:

(A) Skin irritation

(B) Respiratory complications

(C) Central nervous system effects

(D) Internal organ effects

(E) Birth defects

(F) Reproductive effects

(G) Cancer

(H) Immune system effects

(I) Developmental effects

(iii) *Human health hazard precautionary statements.* When using this substance:

(A) Avoid skin contact

(B) Avoid breathing substance

(C) Avoid ingestion

(D) Use respiratory protection

(E) Use skin protection

(iv) *Environmental hazard statements.* This substance may be:

(A) Toxic to fish

(B) Toxic to aquatic organisms

(v) *Environmental hazard precautionary statements.* Notice to Users:

(A) Disposal restrictions apply

(B) Spill clean-up restrictions apply

(C) Do not release to water.

(vi) *Additional statements.* Each human health or environmental precautionary statement identified in subpart E of this part for the label on the substance container must be followed by the statement, "See MSDS for details."

(2) Whenever referenced in subpart E of this part for a substance, the following human health, environmental hazard, exposure, and precautionary statements shall appear on each MSDS as specified in paragraph (c) of this section. Additional statements may be included as long as they are true and do not alter the meaning of the required statements.

(i) *Precautionary statements.* (A) The health effects of this chemical substance have not been determined.

(B) When using this substance, use skin protection.

(C) Use respiratory protection when there is a reasonable likelihood of

exposure in the work area from dust, mist, or smoke from spray application.

(D) Chemicals similar in structure to this substance have been found to cause cancer in laboratory animals.

(ii) *Human health hazard statements.* This substance may cause:

- (A) Skin irritation
- (B) Respiratory complications
- (C) Central nervous system effects
- (D) Internal organ effects
- (E) Birth defects
- (F) Reproductive effects
- (G) Cancer
- (H) Immune system effects
- (I) Developmental effects

(iii) *Human health hazard precautionary statements.* When using this substance:

- (A) Avoid skin contact
- (B) Avoid breathing substance
- (C) Avoid ingestion
- (D) Use respiratory protection
- (E) Use skin protection

(iv) *Environmental hazard statements.* This substance may be:

- (A) Toxic to fish
- (B) Toxic to aquatic organisms
- (v) *Environmental hazard precautionary statements.* Notice to users:

- (A) Disposal restrictions apply
- (B) Spill clean-up restrictions apply
- (C) Do not release to water.

3. By adding new § 721.273 to subpart E to read as follows:

§ 721.273 Aliphatic diurethane acrylate ester (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as aliphatic diurethane acrylate ester (PMN P-85-1013) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

4. By adding new § 721.275 to subpart E to read as follows:

§ 721.275 Alkyldicarboxylic acids, polymers with alkanepolyol and TDI, alkanol blocked, acrylate (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkyldicarboxylic acids, polymers with alkanepolyol and TDI, alkanol blocked, acrylate (PMN P-89-77) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

5. By adding new § 721.278 to subpart E to read as follows:

§ 721.278 Amino acrylate monomer (generic).

(a) *Chemical substances and significant new uses subject to*

reporting. (1) The chemical substances identified generically as amino acrylate monomers (PMNs P-85-296 and PMN P-85-298) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

6. By adding new § 721.289 to subpart E to read as follows:

§ 721.289 Alkenoic acid, trisubstituted benzyl disubstituted phenyl ester (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkenoic acid, trisubstituted benzyl disubstituted phenyl ester (PMN P-89-697) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

7. By adding new § 721.290 to subpart E to read as follows:

§ 721.290 Alkenoic acid, trisubstituted phenylalkyl disubstituted phenyl ester (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkenoic acid, trisubstituted phenylalkyl disubstituted phenyl ester (PMN P-89-694) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

8. By adding new § 721.607 to subpart E to read as follows:

§ 721.607 Bisphenol A, epichlorohydrin, methylenebis(substituted carbomonocycle), polyalkylene glycol, alkanol, methacrylate polymer (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as bisphenol A, epichlorohydrin, methylenebis(substituted carbomonocycle), polyalkylene glycol, alkanol, methacrylate polymer (PMN P-88-2380) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

9. By adding new § 721.760 to subpart E to read as follows:

§ 721.760 Caprolactone, polymer with hexamethylene diisocyanate, hydroxyalkyl acrylate ester, reaction products with substituted alkanolic acid and metal heteromonocycle (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as caprolactone, polymer with hexamethylene diisocyanate, hydroxyalkyl acrylate ester, reaction products with substituted alkanolic acid and metal heteromonocycle (PMN P-89-946) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

10. By adding new § 721.767 to subpart E to read as follows:

§ 721.767 Carbamic acid, (trialkylloxysilylalkyl)-substituted acrylate ester (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbamic acid, (trialkylloxysilylalkyl)-substituted acrylate ester (PMN P-89-424) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(ii)(b).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are

applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

11. By adding new § 721.960 to subpart E to read as follows:

§ 721.960 Acid modified acrylated epoxide (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as acid modified acrylated epoxides (PMNs P-85-1169 and P-85-1170) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

12. By adding new § 721.1045 to subpart E to read as follows:

§ 721.1045 Trimethylolpropane fatty acid diacrylate (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as trimethylolpropane fatty acid diacrylate

(PMN P-88-2463) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

13. By adding new § 721.1282 to subpart E to read as follows:

§ 721.1282 Reaction product of a monoalkyl succinic anhydride with an ω -hydroxy methacrylate (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as reaction product of a monoalkyl succinic anhydride with an ω -hydroxy methacrylate (PMN P-88-701) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

14. By adding new § 721.1285 to subpart E to read as follows:

§ 721.1285 Hydroxyalkyl methacrylate, alkyl ester (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as hydroxyalkyl methacrylate, alkyl ester (PMN P-89-507) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

15. By adding new § 721.1290 to subpart E to read as follows:

§ 721.1290 Substituted oxide-alkylene polymer, methacrylate (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted oxide-alkylene polymer, methacrylate (PMN P-88-2566) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

16. By adding new § 721.1390 to subpart E to read as follows:

§ 721.1390 Methylenebis(4-isocyanatobenzene), polymer with polycaprolactone triol and alkoxylated alkanepolyol, hydroxyalkyl methacrylate ester (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as methylenebis(4-isocyanatobenzene), polymer with polycaprolactone triol and alkoxylated alkanepolyol, hydroxyalkyl methacrylate ester (PMN P-89-749) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

17. By adding new § 721.1500 to subpart E to read as follows:

§ 721.1500 Reaction product of hydroxyethyl acrylate and methyl oxirane (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as reaction product of hydroxyethyl acrylate and methyl oxirane (PMN P-86-832) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

18. By adding new § 721.1612 to subpart E to read as follows:

§ 721.1612 Polymer of alkyl carbomonocycle diisocyanate with alkane polyol polyacrylate (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as polymer of alkyl carbomonocycle diisocyanate with alkane polyol polyacrylate (PMN P-89-73) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

19. By adding new § 721.1617 to subpart E to read as follows:

§ 721.1617 Polyalkylpolysilazane, bis(substituted acrylate) (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyalkylpolysilazane, bis(substituted acrylate) (PMN P-89-423) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in

§ 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), (h)(2)(i)(D), and (h)(2)(ii)(b).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

20. By adding new § 721.1700 to subpart E to read as follows:

§ 721.1700 Poly(oxy-1,4-butanediyl), α-(1-oxo-2-propenyl)-ω-[(1-oxo-2-propenyl)oxy]-

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as poly(oxy-1,4-butanediyl), α-(1-oxo-2-propenyl)-ω-[(1-oxo-2-propenyl)oxy]- (PMN P-84-274) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(ii)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* § 721.85(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance:

§ 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

21. By adding new § 721.1710 to subpart E to read as follows:

§ 721.1710 Polyol carboxylate ester (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyol, carboxylate ester (PMN P-84-27) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(ii)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* § 721.85(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

22. By adding new § 721.1715 to subpart E to read as follows:

§ 721.1715 Alkoxylated alkane polyol, polyacrylate ester (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkoxylated

alkane polyol, polyacrylate ester (PMN P-84-713) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(ii)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (q).

(iv) *Disposal.* § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

23. By adding new § 721.1725 to subpart E to read as follows:

§ 721.1725 Polysubstituted polyol (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as polysubstituted polyol (PMN P-84-814) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B),

(h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

24. By adding new § 721.1740 to subpart E to read as follows:

§ 721.1740 Substituted acrylated alkoxyated aliphatic polyol (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted acrylated alkoxyated aliphatic polyol (PMN P-86-346) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

25. By adding new § 721.1778 to subpart E to read as follows:

§ 721.1778 Poly(oxy-1,2-ethanediyl, α-(2-methyl-1-oxo-2-propenyl)-ω-hydroxy-, C₁₀₋₁₆-alkyl ethers.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as poly(oxy-1,2-ethanediyl, α-(2-methyl-1-oxo-2-propenyl)-ω-hydroxy-, C₁₀₋₁₆-alkyl ethers (PMN P-86-588) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

26. By adding new § 721.1780 to subpart E to read as follows:

§ 721.1780 Poly(oxy-1,2-ethanediyl, α-(1-oxo-2-propenyl)-ω-hydroxy-, C₁₀₋₁₆-alkyl ethers.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as poly(oxy-1,2-ethanediyl, α-(1-oxo-2-propenyl)-ω-hydroxy-, C₁₀₋₁₆-alkyl ethers (PMN P-86-554) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

27. By adding new § 721.1810 to subpart E to read as follows:

§ 721.1810 2-Propenoic acid, 2-hydroxybutyl ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as 2-propenoic acid, 2-hydroxybutyl ester (PMN P-87-930) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(iv) *Disposal.* § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

28. By adding new § 721.1814 to subpart E to read as follows:

§ 721.1814 2-Propenoic acid, 1-(hydroxymethyl)propyl ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as 2-propenoic acid, 1-(hydroxymethyl)propyl ester (PMN P-87-931) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(a).

(iv) *Disposal.* § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

29. By adding new § 721.1818 to subpart E to read as follows:

§ 721.1818 2-Propenoic acid, 2-methyl, 1,1-dimethylethyl ester.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance

identified as 2-propenoic acid, 2-methyl, 1,1-dimethylethyl ester (PMN P-89-422) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (a)(6)(v), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(a).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

30. By adding new § 721.2555 to subpart E to read as follows:

§ 721.2555 Urethane acrylate (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as urethane acrylate (PMN P-85-301) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (h)(1)(i)(A), (h)(1)(i)(B), (h)(1)(i)(C), (h)(1)(v), (h)(2)(i)(B), (h)(2)(i)(C), and (h)(2)(i)(D).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(a).

(iv) *Disposal.* § 721.85(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

[FR Doc. 90-15327 Filed 6-29-90; 8:45 am]

BILLING CODE 6550-50-F

DEPARTMENT OF DEFENSE

48 CFR Parts 208, 225, and 252

Department of Defense Federal Acquisition Regulation Supplement; Anchor and Mooring Chain

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Acquisition Regulatory Council is proposing changes to the DoD FAR Supplement (DFARS) to amend Parts 208, 225, 252, and the clause at 252.208-7005 to implement statutory restrictions on the acquisition of welded shipboard anchor and mooring chain four inches in diameter and under. In addition, two new clauses are required at 252.225-7025 and 252.225-7026 because the fiscal year 1988 law differs from the fiscal year 1989 and later laws. Depending on the fiscal year funds, welded shipboard anchor and mooring chain four inches in diameter and under, must be manufactured in the U.S. or manufactured in the U.S., its territories or possessions, or Canada.

DATES: Comments on the proposed rule should be submitted in writing at the address shown below on or before August 1, 1990, to be considered in the formulation of the final rule. Please cite DAR Case 89-324 in all correspondence related to this issue.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mrs. Alyce Sullivan, Procurement Analyst, DAR Council, ODASD (P) / DARS, c/o OUSD (A) (M&RS), Room 3D139, Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT:
Mrs. Alyce Sullivan, Procurement
Analyst, DAR Council, (202) 697-2666.
SUPPLEMENTARY INFORMATION:

A. Background

Section 8125 of the Fiscal Year 1988 Appropriations Act (Pub. L. 100-202, December 1987) directed that none of the funds available to the Department of Defense may be used for procurement of welded shipboard anchor and mooring chain (of all types four or less inches in diameter) manufactured outside of the United States or Canada. Section 8089 of the Fiscal Year 1989 Appropriations Act (Pub. L. 100-463, October 1988) and Section 9051 of the Fiscal Year 1990 Defense Authorization Act (Pub. L. 101-165, November 1989) say none of the funds may be available for purchase by the Department of Defense of welded shipboard anchor and mooring chain four inches in diameter and under manufactured outside the United States.

Restrictions on forged and welded shipboard anchor chain items were implemented in DFARS part 208, in 1985, to preserve the domestic industrial mobilization base. Departmental letters were issued to implement the fiscal years 1988 and 1989 statutory restrictions. The proposed amendments (1) incorporate the statutory restrictions in Part 225, with two new clauses in 252.225, and (2) amend Part 208 and the clause at 252.208-7005 deleting references to welded shipboard anchor chain.

B. Regulatory Flexibility Act

It is not anticipated that this proposed rule will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et seq. An Initial Regulatory Flexibility Analysis has not been prepared. Comments are invited from small businesses and other interested parties and will be considered in determining whether or not a Final Regulatory Flexibility Analysis is required. Comments from small entities concerning the affected DFARS sections will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DAR Case 90-610 in all correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because this proposed rule does not impose any reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the

public which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 208, 225, and 252

Government procurement.

Linda E. Greene,
Deputy Director Defense Acquisition
Regulatory System.

Therefore, it is proposed that 48 CFR parts 208, 225, and 252 be amended as follows:

1. The authority citation for 48 CFR parts 208, 225, and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Subpart 208.78 is revised to read as follows:

Subpart 208.78—Forging Items Used for Military Application for Combat and Direct Combat Support Items

208.7801 Definitions.

208.7802 Policy.

208.7802-1 DoD Forging Items that must be Acquired from United States and Canadian Sources.

208.7803 Procedures.

Subpart 208.78—Forging Items Used for Military Application for Combat and Direct Combat Support Items

208.7801 Definitions.

Domestic manufacture means forging items manufactured in the United States or Canada.

End item means a final combination of end products, component parts, and/or materials which is ready for its intended use.

208.7802 Policy.

Defense requirements for the forging items listed in 208.7802-1 must be acquired from domestic sources to the maximum extent practicable. Contracting officers shall require that domestic forging items are incorporated into the delivered end items except as provided in 208.7803. This restriction does not include forgings used for commercial vehicles or for noncombat support military vehicles.

208.7802-1 DoD Forging Items that Must be Acquired from United States or Canadian Sources.

Items	Categories
Shipboard Forged Anchor Chain.	All.
Ship Propulsion Shafts.....	Excludes service and landing craft shafts.

Items	Categories
Periscope Tubes.....	All.
Ring Forgings for Bull Gears.	All greater than 120 inches in diameter.
Large Caliber, Thick-Walled Cannon (105mm through 8-inch forgings).	Includes perform, gun tube, muzzle brake, and breach ring forgings.
60mm and 81mm Mortar Forgings.	Includes bipod, base plate, and body yoke forgings.
Small Caliber Weapons Forgings.	Includes barrel extensions, bolts, receivers, sights/handles, etc.
Tank and Automotive Forgings.	Includes turret rings, road arms, final drive gears, shafts, track shoes, axle shafts, flywheels, connecting rods, crankshafts, roadwheels, spindles, torsion bars.

208.7803 Procedures.

(a) The clause at 252.208-7005, Required Sources for Forging Items, shall be inserted in all contracts except—

(1) When the contracting officer knows the item being acquired does not contain forging items listed in 208.7802-1;

(2) When purchases are made overseas for overseas use;

(3) If the quantity being acquired is greater than that required to maintain the U.S. defense mobilization base (provided the quantity above mobilization base needs constitutes an economical buy quantity). The quantity of items above the mobilization base requirement will not be subject to domestic manufacturing restrictions and shall be awarded competitively. NATO and other qualifying countries may compete for excess quantities consistent with part 225.

(b) The contracting officer may waive the requirements of 252.208-7005 after contract award on a case-by-case basis. Waivers may be granted when adequate domestic supplies of listed forging items are not available to meet DoD needs on a timely basis. Such waivers shall only apply for the time necessary for the contractor to acquire domestic forging items.

(c) A Canadian firm may supply restricted items in accordance with paragraph (c) of the clause at 252.208-7005.

PART 225—FOREIGN ACQUISITION

3. Section 225.7000 is revised to read as follows:

225.7000 Scope of Subpart.

This subpart implements restrictions applicable to only the Department of Defense. However, reference should be made to the current Department of Defense Appropriations and Authorization Acts as a check on the current applicability of these restrictions.

4. Section 225.7014 is added to read as follows:

225.7014 Restriction on Acquisition of Anchor and Mooring Chain.

(a) Under Pub. L. 100-463, Section 8089, and subsequent laws, no Fiscal Year 1989 or later funds shall be used to procure welded shipboard anchor and mooring chain (four inches in diameter and under) manufactured outside the United States. The contracting officer shall insert clause 252.225-7025, Restriction on Acquisition of Foreign Anchor and Mooring Chain, in all contracts using Fiscal Year 1989 or later funds requiring anchor or mooring chain.

(b) Under Pub. L. 100-202, Section 8125, no Fiscal Year 1988 funds shall be used to procure welded shipboard anchor and mooring chain (four inches in diameter and under) manufactured outside the United States, its territories or possessions, or Canada. When adequate domestic supplies of chain are not available to meet contract requirements on a timely basis, the chain may be procured from other countries on a case-by-case basis as determined by the Head of the Agency concerned. The contracting officer shall insert clause 252.225-7026, Restriction on Acquisition of Foreign Anchor and Mooring Chain (Fiscal Year 1988), in all contracts using Fiscal Year 1988 funds requiring anchor or mooring chain.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.208-7005 is revised to read as follows:

252.208-7005 Required Sources for Forging Items.

As prescribed at 208.7803, insert the following clause:

REQUIRED SOURCES FOR FORGING ITEMS (____ 1990)

(a) For the purpose of this clause: Domestic manufacture means forging items manufactured in the United States or Canada. End item means a final combination of end products, component parts, and/or materials which is ready for its intended use, per JCS Publication #1 (DoD Dictionary of Military and Associated Terms).

(b) The Contractor agrees that end items, components, and processed materials thereof delivered under this contract shall contain

domestic forging items of United States and Canadian manufacturers only as listed in section 208.7802-1 of the DoD FAR Supplement. This restriction does not include forgings for commercial vehicles (such as commercial cars and trucks) or to noncombat support military vehicles.

(c) A Canadian firm may bid on and supply any of the restricted items if: (1) It normally produces similar items or it is currently producing the item in support of DoD contracts (as prime or subcontractor); and (2) it agrees to become (upon receiving a contract/order) a planned producer under DoD's Industrial Preparedness Program (IPP), if it is not already a planned producer for the item.

(d) The Contractor agrees to insert this clause, including this paragraph (d), in every subcontract and purchase order issued in performance of this contract, unless the Contractor knows that the item being purchased contains none of the restricted forging items.

(e) The Contractor agrees to retain until the expiration of three (3) years from the date of final payment under this contract and to make available during such period, upon request of the Contracting Officer, records showing compliance with this clause.

(f) The requirement for delivery in (b) above may be waived in whole or in part on a case-by-case basis by the Contracting Officer when such a waiver is determined to be in the Government's interest, and it meets the provisions of Subpart 208.78 of the DoD FAR Supplement. (End of clause)

6. Section 252.225-7025 is added to read as follows:

252.225-7025 Restriction on Acquisition of Foreign Anchor and Mooring Chain.

As prescribed at 225.7014(a), insert the following clause:

RESTRICTION ON ACQUISITION OF FOREIGN ANCHOR AND MOORING CHAIN (____ 1990)

(a) Welded shipboard anchor and mooring chain (four inches in diameter and under) contained in items delivered under this contract shall be manufactured in the United States.

(b) This clause, including this paragraph (b), must be included in all subcontracts hereunder, unless items procured contain none of the restricted welded and shipboard anchor and mooring chain. (End of Clause)

7. Section 252.225-7026 is added to read as follows:

252.225-7026 Restriction of Acquisition of Foreign Anchor and Mooring Chain.

As prescribed at 225.7014(b), insert the following clause:

RESTRICTION OF ACQUISITION OF FOREIGN ANCHOR AND MOORING CHAIN—FISCAL YEAR 1988 (____ 1990)

(a) Welded anchor and mooring chain (four inches in diameter and under) contained in items delivered under this contract shall be manufactured in the United States, its

territories or possessions, or Canada except as provided in (b)

(b) The Contractor may request a waiver in accordance with DFARS 225.7014(b) if adequate domestic supplies of welded anchor and mooring chain are unavailable to meet the contract delivery schedule.

(c) This clause, including this paragraph (c), must be included in all subcontracts hereunder, unless items procured contain none of the restricted welded and shipboard anchor and mooring chain. (End of Clause)

[FR Doc. 90-14952 Filed 6-29-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AB42

Endangered and Threatened Wildlife and Plants: Proposed Endangered Status for the Plant *Helianthus Schweinitzii* (Schweinitz's sunflower)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list *Helianthus schweinitzii* (Schweinitz's sunflower), a perennial herb limited to 15 populations in North Carolina and South Carolina, as an endangered species under the authority of the Endangered Species Act (Act) of 1973, as amended. *Helianthus schweinitzii* is endangered by suppression of fire and/or grazing, residential and industrial development, mining, encroachment by exotic species, highway construction and improvement, and roadside and power line right-of-way maintenance. This proposal, if made final, would implement Federal protection provided by the Act for *Helianthus schweinitzii*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by August 31, 1990. Public hearing requests must be received by August 16, 1990.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, room 224, Asheville, North Carolina 28801. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Nora Murdock at the above address (704/259-0321 or FTS 672-0321).

SUPPLEMENTARY INFORMATION:

Background

Helianthus schweinitzii, described by John Torrey and Asa Gray (1841) from material collected in North Carolina, is a rhizomatous perennial herb. This sunflower grows from 1 to 2 meters tall from a cluster of carrot-like tuberous roots; stems are usually solitary, branching only at or above mid-stem, with the branches held in candelabrum-style arches. The narrowly-lanceolate opposite leaves are scabrous above, resin-dotted and loosely soft-white-hairy beneath, entire (or occasionally with a few small teeth), 18 centimeters long, and 2.5 centimeters wide. The yellow flowers are approximately 5.5 centimeters in diameter and are borne from September to frost in a rather open system of upwardly arching heads. The fruit of this species is a smooth, dark gray-brown achene approximately 5 millimeters long (Kral 1983, Radford et al. 1964, Cronquist 1980). Stems are often a deep red color. The leaves are opposite on the lower parts of the stems, usually becoming alternate on the upper parts. The most distinctive feature of *Helianthus schweinitzii* is its tuberous root system. The aerial portion of the plant does not have many obviously distinctive features and can be confused with several other similar species, including the sympatric *H. laevigatus* and narrow-leaved extremes of *H. microcephalus*. However, the relatively small heads of *H. schweinitzii*, as well as the rather narrowly lanceolate leaf, which is revolute (at least when dry) and rather densely pubescent and resin-dotted beneath, combine to distinguish *H. schweinitzii* from its similar relatives.

Helianthus schweinitzii is endemic to the piedmont of the Carolinas, where it is currently known from 10 locations in North Carolina and 5 in South Carolina. The species occurs in clearings and edges of upland woods on moist to dryish clays, clay-loams, or sandy clay-loams, which often have a high gravel content and are moderately podzolized. Soils supporting this species are mainly of the Iredell series. Like most sunflowers, this species is a plant of full sun or the light shade of open stands of oak-pine-hickory (Kral 1983). Natural fires as well as large herbivores, including elk and bison, are part of the history of the vegetation in this species' range, and many of the associated herbs are also cormophytic, sun-loving species which depend on periodic disturbances to reduce the shade and competition of woody plants (Kral 1983). The piedmont areas now occupied by remnant populations of *Helianthus schweinitzii*

were characterized in early accounts (Brown 1953) as:

Where the woodlands came to an end, [and] the open prairies began. We are informed by early writers that the Blackjack lands of Chester and York [Counties, South Carolina] were once prairies with no growth of trees, and covered in many places with maiden cane * * * through this country, with its magnificent woods and wide prairies, roam the buffalo and the deer in large numbers, the luxuriant grass lands also feed the elk * * * the * * * region [is] now thickly covered with Blackjack, but at that time [(during the American Revolution)], [it was] an open prairie, on which persons could be seen at a great distance. The patriots coming to visit their families always endeavored to pass over this plain by night, to avoid detection by the Tories.

Logan (1859) similarly described this same region as a prairie where "vast brakes of cane [stretched] in unbroken lines of evergreen for hundreds of miles * * *". *Schweinitz's* sunflower, like other prairie species, is dependant upon some form of disturbance to maintain the open quality of its habitat. Currently, artificial disturbance, such as power line and road right-of-way maintenance (where they are accomplished without herbicides and at a season that does not interfere with the reproductive cycle of this sunflower) are maintaining some of the openings historically provided by naturally occurring periodic fires and native grazing animals.

Twenty-one populations of *Helianthus schweinitzii* have been reported historically from 10 counties in North Carolina and South Carolina. Earlier reports of the species from Georgia and Alabama are now believed to have been in error (Robert Kral, Vanderbilt University, personal communication, 1988). Of the 15 remaining populations (located in York County, South Carolina, and Stanley, Cabarrus, Mecklenburg, Rowan, and Union Counties, North Carolina), 7 are within rights-of-way maintained by the North Carolina Department of Transportation, 2 are in rights-of-way maintained by the South Carolina Department of Highways and Public Transportation, 1 is on land managed by the Rock Hill, South Carolina, Department of Parks, Recreation, and Tourism, and the remaining 5 are on privately owned lands usually in or near transmission line corridors of various utility companies. Extirpated populations are believed to have succumbed as a result of suppression of natural disturbance (fire and/or grazing), residential and industrial development, and highway construction and improvement. The continued existence of *Helianthus*

schweinitzii is threatened by these activities, as well as by mining (part of one population exists near an active gravel quarry), herbicide use, and possibly by encroachment of exotic species.

Federal government actions on this species began with section 12 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document number 94-51, was presented to Congress on January 9, 1975. The Service published a notice in the July 1, 1975, Federal Register (40 FR 27832) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) [now section 4(b)(3)] of the Act and of its intention thereby to review the status of the plant taxa named within.

On December 15, 1980, the Service published a revised notice of review for native plants in the Federal Register (45 FR 82480). *Helianthus schweinitzii* was included in that notice as a Category 1 species. Category 1 species are those species for which the Service currently has on file substantial information on biological vulnerability and threats to support proposing to list them as endangered or threatened. Subsequent revisions of the 1980 notice have maintained *Helianthus schweinitzii* in Category 1 until the February 21, 1990, publication of the revised notice of review for native plants in the Federal Register (55 FR 6184), in which this species' status changed to Category 2 in recognition of the need for additional status surveys. Recent surveys have been conducted by Service and State personnel, and the Service now believes sufficient information exists to proceed with a proposal to list *Helianthus schweinitzii* as endangered.

Section 4(b)(3)(B) of the Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Helianthus schweinitzii* because of the acceptance of the 1975 Smithsonian report as a petition on October 13, 1983; and in October of each year thereafter, through 1989, the Service found that the petitioned listing of *Helianthus schweinitzii* was warranted but precluded by other listing actions of a higher priority and that

additional data on vulnerability and threats were still being gathered. Publication of this proposal constitutes the final finding for the petitioned action.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Helianthus schweinitzii* Torrey and Gray (Schweinitz's sunflower) are as follows:

A. The present or threatened destruction, modifications, or curtailment of its habitat or range. *Helianthus schweinitzii* has been and continues to be endangered by destruction or adverse alteration of its habitat. Since discovery of this species, approximately one-third of the known populations have been extirpated, largely due to fire/grazing suppression, and conversion of the habitat for residential and industrial purposes. Fire/grazing suppression is a serious problem for this species and will be discussed in detail under Factor E below. At least 14 of the remaining 15 populations are currently threatened by habitat alterations (North Carolina Natural Heritage Program and South Carolina Heritage Trust Program, 1989).

Ten of these populations survive along roadsides with an additional population being in a utility line rights-of-way. Some of the roadside population being in a utility line right-of-way. Three others have been partially bulldozed in recent years. All of these populations are small, which increases their vulnerability to extirpation as a result of highway and rights-of-way. Three others have been improvement, particularly if herbicides are used. Significant declines have been noted within the last 3 years in six of the remaining populations, with decreases ranging from 9 percent to 89 percent. During the same time period, increases in numbers of stems were noted at only three of the currently extant sites, ranging from 14 percent to 150 percent (the latter figure is from one unusually vigorous population located on a highly vulnerable site only a few feet off a paved highway). Four of the remaining populations are tiny, containing less than 40 plants each.

The extreme narrowness of geographic range and scarcity of seed

sources, as well as appropriate habitat, increases the severity of the threats faced by *Helianthus schweinitzii*. As stated in the "Background" section above, this species requires some form of disturbance to maintain its open habitat and can withstand mowing and timber-harvesting operations, if properly done. It cannot withstand bulldozing or direct application of broadleaf herbicides. In addition, the small populations that survive on road edges could be easily destroyed by highway improvement projects or by right-of-way maintenance activities if these are not done in a manner consistent with protecting the species.

B. Overutilization for commercial, recreational, scientific, or educational purposes. *Helianthus schweinitzii*, although it is offered for sale by a few native plant nurseries, is not currently a significant component of the commercial trade in native plants. However, with its relatively showy flowers, the species has potential for horticultural use, and publicity could generate an increased demand which might exceed the currently available sources of cultivated material. Because of the species' small and easily accessible populations, it is vulnerable to taking and vandalism that could result from increased specific publicity.

C. Disease or predation. Not applicable to this species at this time.

D. The inadequacy of existing regulatory mechanisms. *Helianthus schweinitzii* is afforded legal protection in North Carolina by North Carolina general statutes, §106-202.122, 106-202.19 (CUN.SUP.1985), which provides for protection from interstate trade (without a permit) and for monitoring and management of State-listed species and prohibits taking of plants without written permission of landowners. *Helianthus schweinitzii* is listed in North Carolina as endangered. The species is recognized in South Carolina as threatened and of national concern by the South Carolina Advisory Committee on rare, threatened, and endangered plants in South Carolina; however, this State offers no official protection. The Endangered Species Act would provide additional protection and encouragement of active management for *Helianthus Schweinitzii*.

E. Other natural or manmade factors affecting its continued existence. As mentioned in Factor A, many of the remaining populations are small in numbers of individual stems and in terms of area covered by the plants. Therefore, there may be low genetic variability within populations, making it more important to maintain as much habitat and as many of the remaining

colonies as possible. Much remains unknown about the demographics and reproductive requirements of this species in the wild, although germination tests and cultivation experiments have been conducted at the North Carolina Botanical Garden in cooperation with the Center for Plant Conservation, The Garden Club of America, and the Fauquier-Loudon Garden Club of Virginia. A few commercial nurseries specializing in native plants are currently propagating this species and are offering cultivated specimens for sale.

Fire or some other suitable form of disturbance, such as well-timed mowing or careful clearing, is essential to maintaining the prairie remnants occupied by *Helianthus schweinitzii*. Without such periodic disturbance, this type of habitat is gradually overtaken and eliminated by shrubs and trees of the adjacent woodlands. As the woody species increase in height and density, they overtop *Helianthus schweinitzii*, which, like most other sunflowers, is shade intolerant. The current distribution of the species is ample evidence of its dependence on disturbance. Of the 15 remaining populations, 11 are on roadsides or in power line rights-of-way.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Helianthus schweinitzii* as endangered. With one-third of the species' populations already having been eliminated, only 15 remaining in existence, and based upon its dependence on some form of active management, it definitely warrants protection under the Act. Endangered status seems appropriate because of the imminent serious threats facing those populations. As stated by Kral (1983).

The problem is that, this being a very localized species, * * * seed sources are usually * * * destroyed [thereby preventing recolonization of bulldozed or otherwise severely disturbed sites]; therefore large tracts of the former range of *H. schweinitzii* now lack it [the species].

Critical habitat is not being designated for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is proposed to be endangered or threatened. The Service finds that

designation of critical habitat is not presently prudent for *Helianthus schweinitzii*. As discussed in Factor B in the "Summary Factors Affecting the Species," *Helianthus schweinitzii* is threatened by taking, an activity difficult to enforce against and only regulated by the Act with respect to plants in cases of (1) removal and reduction to possession of endangered plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law. Such provisions are difficult to enforce, and publication of critical habitat descriptions and maps would make *Helianthus schweinitzii* more vulnerable and would increase enforcement problems. All involved parties and principal landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process and through the section 7 consultation process. Therefore, it would not now be prudent to determine critical habitat for *Helianthus schweinitzii*.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed

critical habitat. If the species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal activities that could impact *helianthus schweinitzii* and its habitat in the future include, but are not limited to, the following: Power line construction, maintenance, and improvements; highway construction, maintenance, and improvement; and permits for mineral exploration and mining. The Service will work with the involved agencies to secure protection and proper management of *Helianthus schweinitzii* while accommodating agency activities to the extent possible.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for endangered plants, the 1988 amendments (Pub. L. 100-478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of endangered plants in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances.

It is anticipated that few trade permits will be sought or issued because the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 3507,

Arlington, Virginia 22203-3507 (703/358-2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Asheville Field Office (see "ADDRESSES" section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Asheville Field Office (see "ADDRESSES" section).

Author

The primary author of this proposed rule is Ms. Nora Murdock (see "ADDRESSES" section) (704/259-0321 of FTS 672-0321).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

(1) The authority citation for 50 CFR part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

(2) It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Asteraceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asteraceae-Aster family:						
<i>Helianthus schweinitzii</i>	Schweinitz's sunflower	U.S.A. (NC, SC)	E	NA	NA	NA

Dated: May 23, 1990.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

[FR Doc. 90-15326 Filed 6-29-90; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register

Vol. 55, No. 127

Monday, July 2, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Information Collection Submitted to the Office of Management and Budget for Review

AGENCY: ACTION, the Federal Domestic Volunteer Agency.

ACTION: Information collection submitted to the Office of Management and Budget (OMB) for review.

SUMMARY: The following form(s) have been submitted to OMB for approval under the Paperwork Reduction Act (44 U.S.C. chapter 35). This entry is not subject to 44 U.S.C. 3504(h). Copies of the submission(s) may be obtained from the ACTION Clearance Officer.

DATES: OMB and ACTION will consider comments received by August 1, 1990. Send comments to both:

Janet Smit, Clearance Officer, ACTION,
1100 Vermont Ave., NW., Washington,
DC 20525. Tel: (202) 634-9245, and
Desk Officer for ACTION, Office of
Management and Budget, 3002 New
Executive Office Bldg., Washington,
D.C. 20503. Tel: (202) 395-7316.

Title of Form(s): Vista Pre-Application Inquiry

ACTION forms No(s): A-1024

Need and Use: This document is used by the ACTION state program offices to ascertain qualifications of potential VISTA sponsors

Type of Request: Pre-Application Inquiry

Respondent's Obligation to Reply: Optional—determined by State Program office

Description of Respondents: Public agencies and private non-profits, including small, grass-roots organizations

Frequency of Collection: Once, as determined by State office

Estimated Number of Annual Responses: 200

Average Burden Hours per Response: 1

Estimated Annual Reporting or Disclosure Burden: 1 hr/submission

Janet Smith,

Clearance Officer, ACTION.

[FR Doc. 90-19272 Filed 6-29-90; 8:45 am]

BILLING CODE 6050-38-M

DEPARTMENT OF AGRICULTURE

[Docket No. 90-064]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit to Field Test Genetically Engineered Tobacco Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to the Rohm and Haas Company, to allow the field testing in Johnston County, North Carolina, of tobacco plants genetically engineered to express the delta-endotoxin protein from *Bacillus thuringiensis* var. *berliner* for resistance to lepidopteran insects. The assessment provides a basis for the conclusion that the field testing of these genetically engineered tobacco plants will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Schechtman, Biotechnologist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S.

Department of Agriculture, Room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782, (301) 436-7612. For copies of the environmental assessment and finding of no significant impact, write Mr. Clayton Givens at this same address. The environmental assessment should be requested under permit number 89-362-01.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

The Rohm and Haas Company, of Des Plaines, Illinois, has submitted an application for a permit for release into the environment, to field test tobacco plants genetically engineered to express delta-endotoxin protein from *Bacillus thuringiensis* var. *berliner* for resistance to lepidopteran insects. The field trial will take place in Johnston County, North Carolina.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the tobacco plants under the conditions described in the Rohm and Haas Company application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by the Rohm and Haas Company, as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the

environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. A gene for insect resistance has been inserted into the tobacco chromosome. In nature, chromosomal genetic material from plants can only be transferred to other sexually compatible plants by cross-pollination. In this field test trial, all flowers will either be removed before they are sexually mature, or will be bagged for pollen containment. Therefore, the introduced gene will be prevented from spreading to other plants by cross-pollination.

2. Neither the delta-endotoxin gene itself, nor its product, confers on tobacco any plant pest characteristics.

3. The micro-organism from which the delta-endotoxin gene was isolated is not a plant pest and is widely distributed in the environment as a soil inhabitant.

4. The vector used to transfer the delta-endotoxin gene to tobacco plants has been evaluated for its use in this specific experiment and does not pose a plant pest risk in this field test. The vector, although derived from a DNA sequence with known plant pest potential, has been disarmed; that is, genes that are necessary for producing plant disease have been removed from the vector. The vector has been tested and shown not to be pathogenic to any susceptible plants.

5. The vector agent, the bacterium that was used to deliver the vector DNA and the delta-endotoxin gene into the plant cell, has been shown to be eliminated and no longer associated with the transformed tobacco plants.

6. Horizontal movement of the introduced gene is not known to be possible. The vector does not survive in the transformed plants. No mechanism that can transfer an inserted gene from a chromosome of a transformed plant to a chromosome of another organism has been shown to exist in nature.

7. The toxic polypeptide produced by the insect resistance gene is called delta-endotoxin. Upon ingestion, the toxin kills only lepidopteran insects. Delta-endotoxin is not toxic to other insects, birds, fish, or mammals. Because of its safety, topical applications on vegetable crops is permitted up to date of harvest.

8. DNA sequences used to regulate expression of the inserted gene in tobacco are derived from the plant pest *Agrobacterium tumefaciens*. These sequences in themselves, however, encode no proteins, and confer no plant pest related property on the recipient plants.

9. The test is to take place on a small field site, just under 1 acre in size, on a fenced research facility. The site has good security, public access is restricted, and full-time employees reside near the test site.

10. At the conclusion of the test, tobacco plants will be killed by shredding, and plant material disked back into the soil. The site will be monitored until the first hard frost and again during the following growing season. Any volunteer tobacco that may arise will be killed using herbicide as necessary.

The environmental assessment and finding of no significant impacts have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500-1509), (3) USDA Regulations Implementing NEPA (7 CFR Part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384, August 28, 1979, and 44 FR 51272-51274, August 31, 1979).

Done in Washington, DC, this 26th day of June 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-15319 Filed 6-29-90; 8:45 am]

BILLING CODE 3410-34-M

Federal Grain Inspection Service

Designation Renewal of the State of Georgia and the Schneider Agency

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of the Georgia Department of Agriculture (Georgia) and the Schneider Inspection Service, Inc. (Schneider) as official agencies responsible for providing official services under the U.S. Grain Standards Act, as amended (Act).

EFFECTIVE DATE: August 1, 1990.

ADDRESSES: James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and

Departmental Regulation 1512-1; therefore, the Executive order and Departmental Regulation do not apply to this action.

The Service announced that Georgia's and Schneider's designations terminate on July 31, 1990, and requested applications for official agency designation to provide official services within specified geographic areas in the February 1, 1990, *Federal Register* (55 FR 3429). Applications were to be postmarked by March 5, 1990. Georgia and Schneider were the only applicants for designation in those areas and each applied for the entire area currently assigned to that agency.

The Service announced the applicant names in the April 2, 1990, *Federal Register* (55 FR 12240) and requested comments on the applicants for designation. Comments were to be postmarked by May 17, 1990. One comment in favor of Schneider was received.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and in accordance with section 7(f)(1)(B), determined that Georgia and Schneider were able to provide official services in the geographic areas for which the Service is renewing their designation.

Effective August 1, 1990, and terminating July 31, 1993, Georgia and Schneider are designated to provide official inspection services, in their specified geographic areas as previously described in the February 1 *Federal Register*.

Interested persons may obtain official services by contacting Georgia at (912) 386-3131, and Schneider at (219) 992-2306.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: June 21, 1990.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 90-14891 Filed 6-29-90; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on the Designation Applicants in the Geographic Areas Currently Assigned to the Hastings (NE) Agency and the State of New York

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the geographic areas

currently assigned to Hastings Grain Inspection, Inc. (Hastings) and the New York State Department of Agriculture and Markets (New York).

DATES: Comments must be postmarked on or before August 16, 1990.

ADDRESSES: Comments must be submitted in writing to Paul Marsden, RM, FGIS, USDA, Room 0628 South Building, P.O. Box 96454, Washington, DC 20090-6454.

SprintMail users may respond to [PMARSDEN/FGIS/USDA].

Telecopier users may send responses to the automatic telecopier machine at (202) 447-4628, attention: Paul Marsden.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Paul Marsden, telephone (202) 475-3428.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within specified geographic areas in the May 1, 1990, *Federal Register* (55 FR 18144). Applications were to be postmarked by May 31, 1990. Hastings and New York were the only applicants for designation in those areas, and each applied for the entire area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the applicants for designation. Commenters are encouraged to submit reasons for support or objection to this designation action and include pertinent data to support their views and comments. All comments must be submitted to the Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the *Federal Register*, and the applicant will be informed of the decision in writing.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended [7 U.S.C. 71 *et seq.*].

Dated: June 21, 1990.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 90-14892 Filed 6-29-90; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants To Provide Official Services in the Geographic Areas Currently Assigned to the Decatur (IL) Agency and the State of South Carolina

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of two agencies will terminate, in accordance with the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic areas currently assigned to the specified agencies. The official agencies are Decatur Grain Inspection, Inc. (Decatur) and the South Carolina Department of Agriculture (South Carolina).

DATES: Applications must be postmarked on or before August 1, 1990.

ADDRESSES: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Decatur, located at 3434 East Wabash Avenue, Decatur, IL 62521, and South Carolina, located at the Marketing-Wade Hampton Building, Columbia, SC 29211 were designated under the Act on January 1, 1988, as official agencies, to provide official inspection services.

The designation of each of these official agencies terminates on December 31, 1990. Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Decatur, in the State of Illinois, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern and eastern DeWitt County lines; the eastern Macon County line south to Interstate 72; Interstate 72 northeast to the eastern Piatt County line;

Bounded on the East by the eastern Piatt, Moultrie, and Shelby County lines;

Bounded on the South by the southern Shelby County line; a straight line running along the southern Montgomery County line west to State Route 16 to a point approximately one mile northeast of Irving; and

Bounded on the West by a straight line from this point northeast to Stonington on State Route 48; a straight line from Stonington northwest to Elkhart on Interstate 55; a straight line from Elkhart northeast to the west side of Beason on State Route 10; State Route 10 east to DeWitt County; the western DeWitt County line.

Exceptions to Decatur's assigned geographic area are the following locations inside Decatur's area which have been and will continue to be serviced by the following official agencies:

1. Champaign-Danville Grain Inspection Departments, Inc.: Moultrie Grain Association, Cadwell, Moultrie County; Tabor and Company, Weedman Grain Company, and Pacific Grain Company, all in Farmer City, DeWitt County; Moultrie Grain Association, Lovington, Moultrie County; and Monticello Grain Company, Monticello, Piatt County;

2. Southern Illinois Grain Inspection Service, Inc.: Sigel Elevator Company, Inc., Sigel, Shelby County; and

3. Springfield Grain Inspection Department: Chesterville Elevator Company, Chesterville, Logan County.

The geographic area presently assigned to South Carolina, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is the entire State of South Carolina, except those export port locations within the State.

Interested parties, including Decatur and South Carolina, are hereby given opportunity to apply for official agency

designation to provide the official services in the geographic areas, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in each specified geographic area is for the period beginning January 1, 1991, and ending December 31, 1993. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Date: June 21, 1990.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 90-14893 Filed 6-29-90; 8:45 am]

BILLING CODE 3410-EN-M

Cancellation of Designation Issued to John R. McCrea and Request for Designation Applicants in Iowa

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice announces that John R. McCrea dba John R. McCrea Agency (McCrea), has requested the cancellation of its designation, effective December 31, 1990. A request for designation applicants is also included in this notice.

DATES: Applications must be postmarked on or before August 1, 1990.

ADDRESSES: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate

such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

McCrea, located at 96-18th Place, Clinton, IA 52732, was designated under the Act on April 1, 1990, as an official agency, to provide official inspection services. The designation of this official agency was scheduled to terminate on March 31, 1993. McCrea requested the voluntary cancellation of its designation, effective December 31, 1990.

The geographic area presently assigned to McCrea, in the States of Illinois and Iowa, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

In Illinois: Carroll and Whiteside Counties.

In Iowa: Clinton and Jackson Counties.

Interested parties, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic areas, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning January 1, 1991, and ending December 31, 1993. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Date: June 21, 1990.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 90-14894 Filed 6-29-90; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Management Direction and Inventory and Monitoring Protocols for the Mexican Spotted Owl in the Southwestern Region

AGENCY: Forest Service.

ACTION: Notice: revision of interim policy.

SUMMARY: Because of concern for the habitat of the Mexican spotted owl (*Strix occidentalis lucida*), the Regional Forester, Southwestern Region of the U.S. Forest Service (FS), issued interim policy on Mexican spotted owl habitat management in the Forest Service Manual, as published in the June 29, 1989 issue of the **Federal Register**. These guidelines were reissued as interim policy to the Forest Service Manual on June 25, 1990 while the Southwestern Region continues to collect information on this sensitive species to provide a better understanding of their habitat preferences and other characteristics of the population.

This interim policy was reviewed by the Mexican spotted owl Task Force, an informal group with representative from Federal and State agencies, Mexican spotted owl researchers, and interested publics from within New Mexico and Arizona. The task force considered the comments submitted by over 145 individuals, groups, organizations and agencies during their review. These comments were submitted during the 60 day comment period following the June 29, 1989 **Federal Register** notice of the Southwestern Region issuing Interim Directive No. 1 at 2676.2 to the Forest Service Manual.

The task force recommendations resulted in numerous changes in the Interim Directive. These changes will reduce confusion and provide for more consistent application of the guidelines by the Forests. The Task Force also provided several alternative management guidelines for use on the Lincoln and Gila National Forests, of which the Regional Forester selected one set of management guidelines for both Forests, without changing the management direction applied on the remainder of the Forests, as published in June 29, 1989.

These interim management guidelines provide direction for Southwestern Region forests to use when Mexican spotted owls are found on National Forest System lands. The guidelines provide standard definitions to use when determining habitat suitability and owl occupancy, and standard methodology to use to locate, establish and manage a Mexican spotted owl Management Territory.

Besides issuing the management guidelines and inventory protocol, this revised interim policy also provides a monitoring protocol to standardize methods used when monitoring Mexican spotted owl Management Territories. The monitoring protocol ensures consistency across the Region in the

effort necessary to obtain a statistically valid and comparable search of the monitored area to determine site occupancy and reproduction.

This interim policy is being published under Forest Service regulations at 36 CFR part 216, involving the Public in the Formulation of Forest Service Directives. It is being published in advance of giving the public an opportunity to comment on the revisions to the interim policy because of the immediate need to continue protecting occupied Mexican spotted owl habitat while gathering additional data about the Mexican spotted owl. However, the Forest Service again welcomes comments on this interim policy. These comments will be used when making future revisions to the interim policy as was done with the comments in response to the first interim policy.

DATES: This policy is effective June 26, 1990. Comments on the guidelines must be received on or before October 1, 1990.

ADDRESSES: Direct comments to: David F. Jolly, Regional Forester, 2670, Southwestern Region, USDA Forest Service, 517 Gold Avenue SW., Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: William D. Zeedyk, Director, Wildlife and Fisheries or Keith W. Fletcher, Assistant Threatened, Endangered and Sensitive Species Program Manager (505) 842-3260 or 842-3267. Direct requests for a complete copy of the guidelines to Keith W. Fletcher at the above address.

SUPPLEMENTAL INFORMATION:

Background

The Mexican Spotted Owl Task Force was formed in January, 1988 to provide the Regional Forester, Southwestern Region with assistance in the management of the Mexican spotted owl and its habitat within the Region. Their recommendations were used to develop the interim policy as published in the June 28, 1989 Federal Register.

In November 1989, the Task Force was asked to make recommendations on technical changes to the guidelines and to develop additional alternatives for management with emphasis on the Gila and Lincoln National Forests. It was not the Region's intent for the Task Force to make a consensus recommendation on a single strategy.

Task Force members include:

- A vice-president of a major timber company in the Region.
- A state representative of a national environmental organization.
- The threatened and endangered species biologists from Arizona and

New Mexico Game and Fish Departments.

- Representatives from the Arizona and New Mexico Ecological Services Office of the U.S. Fish and Wildlife Service.
- Two Forest Supervisors, one from an Arizona Forest and the other from a New Mexico Forest.
- A Forest Wildlife Staff Officer.
- Southwestern Regional Office representative of Land Management Planning, Public Affairs Office, Timber Management and Wildlife Management.
- The Southwestern Region Spotted Owl Program Manager (Task Force Leader).

Between November, 1989 and January of 1990, Task Force members spent 10 days in 6 separate meetings reviewing public comments and other pertinent information used to recommend changes to the Interim Directive. Guests were often invited to provide necessary information, and there were as many as 20 to 25 observers at several of the meetings.

The information reviewed by the Task Force included available research, administrative studies, inventory and monitoring data. It also included the comments the Region received from over 145 individuals, agencies, organizations or groups during the 60 day comment period following the June 29, 1989 Federal Register notification of the Southwestern Region issuing Interim Directive No. 1 on June 23, 1989.

Revisions to Interim Directive No. 1

The following are changes recommended by the Task Force as a result of their review.

The introduction is expanded to provide a better understanding of when a Management Territory would be established and to include information on the additions of a reflector inventory protocol and monitoring program to the interim policy.

The Objectives section (2676.2 item 2.) is revised by combining two objectives into one and adding the following three new objectives: (1) To standardize monitoring procedures; (2) to ensure continued existence of a well distributed population through habitat management; and (3) to ensure Management Territories are managed to maintain reproductive pairs.

The Policy section (2676.2 item 3.) is revised to clarify the role owls located using the inventory protocol play in identifying Mexican spotted owl habitat and when the management direction portion of the Interim Directive would be implemented.

Revisions made in the Responsibilities section (2676.2 item 4.) expand and

clarify the responsibilities of the Spotted Owl Program Manager, Forest Supervisor, Forest Biologist/Wildlife Staff Officer and District/Zone Wildlife Biologist.

The Spotted Owl Program Manager will now coordinate management and research activities with appropriate State and Federal agencies; manage the Regional Mexican spotted owl program including budget, provide staffing advice and data management; and, select the sites where monitoring will occur.

Forest Supervisors are now responsible for monitoring and they are authorized to approve cash award programs for locating spotted owls.

Wildlife Staff Officers now have the same responsibilities as Forest Biologists, on Forests where the Forest Biologist responsibilities are expanded by the Wildlife Staff Officer. Their responsibilities are expanded to: Ensure all personnel conducting spotted owl inventories and monitoring meet Regional training standards; provide field level coordination with appropriate agencies; develop and administer a spotted owl award program where appropriate; coordinate show-me trips with on-going administrative studies or research activities, ensure that the release information confirms with Forest Service policy; select informal monitoring sites; and, review territory and core area boundaries submitted by District and Zone biologists.

It is now the responsibility of District and Zone biologists to identify core and territory boundaries, identify inventory priorities, conduct show-me trips, and verify reports of spotted owls made under established cash award programs.

Revision to the Definitions section (2676.2 item 5.) include those made to clarify earlier definitions and remove direction from the Definition section. Several definitions inadvertently omitted from Interim Directive No. 1 are added in this revision. Several definitions that only applied to one of the three exhibits are moved to the appropriate exhibit. Most of the changes to Definitions section resulted from public comments.

The Planning section (2676.2 item 6.) incorporates a number of additions to the interim policy. It provides training standards to ensure people conducting inventory or monitoring understand the appropriate protocol, and that they can accurately identify visual sightings and vocal responses of spotted owls and other raptor species encountered during inventory or monitoring activities. Changes in this section include: (1) Identify where the reflector protocol will be used during the 1990 field season; (2)

a better description of when a secondary inventory is required; (3) a better description of when to establish a Core Area and Management Territory; (4) added direction on how to incorporate non-National Forest System lands into Territory establishment and management; and (5) identify the types of monitoring the Region will conduct and how sites will be selected.

The Regional Forester decided to change the Management Direction section for the Lincoln and Gila National Forests, including those portions of the Apache National Forest administered by the Gila. The alternative selected reduces the Management Territory size from 2,000 acres to 1,500 on these two Forests. This change allows management activities to occur in a maximum of 500 acres outside of the core area, down slightly from the 516 acre earlier limit. It also eliminates the earlier 775 existing maximum acreage where activities may be allowed. This change also increases the minimum core area on the Lincoln National Forest from 300 acres to 450 acres.

Management Direction did not change for the other Forests in the Region, but clarification changes made in this section will improve application on all Forests.

Two new sections were added. The Award Program section (2676.2 item 9.) provides guidance to the Forests when establishing an award program. The Show-me Trip section (2676.2 item 10.) provides for appropriate and consistent use of show-me trips.

Summary of the Interim Guidelines

There are three categories identified in the interim management guidelines. Each category gives direction necessary to establish and manage a Mexican spotted owl territory no matter what phase of National Environmental Policy Act (NEPA) analysis the activity is in at the time a Mexican spotted owl is found.

The guidelines allow for territories to overlap in all three categories where owls are found in close proximity to one another, but core areas (key nesting, feeding and roosting habitat) cannot overlap. The acreage figure for management activities which presently occur or are proposed within the area of territory overlap count toward the maximum acreage limit where activities are allowed for each territory. The core area size for all Southwestern Region forests is 450 acres. The core area for the Lincoln National Forest was increased from 300 to 450 acres.

Category I of the interim guidelines is used when a Mexican spotted owl is found in an area where no NEPA decision document has been signed for a

proposed activity or where no activity has been proposed. Here, a 2,000 (1,500 acres on the Lincoln and Gila Forests) acre territory shall be established for known nest and roost sites or where multiple sightings occur in an area but no nest nor roost has been found. Within a 450 acre core area in the territory, no activities shall be allowed except road building and then only when the NEPA documentation and decision document indicate that no other feasible route is available. Management activities are allowed in a maximum of 516 (500 acres on the Lincoln and Gila Forests) of the remaining 1550 (2,000-450) acres of the territory. On a case by case basis, this 516 acres where activities are allowed can be expanded to a maximum of 775 acres (does not apply to the Lincoln and Gila Forests). The intent is to limit management activities within a territory to a maximum of 516 acres. However, this additional 259 (775-516) acres provides some degree of flexibility when dealing with difficult situations that occur on occasion.

Category II of the interim guidelines is used when a Mexican spotted owl is found in an area where there is a signed NEPA decision document but the activity is not yet under contract. The guidelines are the same as identified for Category I activities except that the 516 (500 on the Lincoln and Gila Forests) acres where activities are allowed can be expanded to a maximum of 775 (does not apply to the Lincoln and Gila Forests) acres when the timber sale volume identified in the environmental and decision documents can not be met in the 516 acre area. All other aspects remain as identified in Category I. This Category also requires NEPA decision documents be supplemented, corrected, or revised as appropriate.

Category III of the interim guidelines is used when a Mexican spotted owl is found in an area where activities are under contract. Here, the guidelines call for establishing a 2,000 (1,500 acres on the Lincoln and Gila Forests) acre territory and 450 acre core area as in Category I. No limit is set on the acreage where activities can occur for those activities identified in the contract. Timber sale contracts with harvest units within the core area shall be modified to restrict further harvest activities from occurring within the core area.

All unharvested volume within the core area shall be replaced with volume from other stands within the sale area boundary where it is silviculturally and environmentally acceptable to do so. On occasion, situations may arise where it is economically or environmentally unfeasible to replace all unharvested

volume. NEPA decision documents shall be supplemented, corrected, or revised as appropriate.

Summary of the Inventory Protocol

The objectives of the Southwestern Region's Mexican spotted owl Inventory Protocol are to: Standardize the survey methods used in the Region; ensure an adequate search effort is conducted in suitable Mexican spotted owl habitat to identify general areas where territories would be placed and to locate nest and roost sites to aid in identifying core areas; provide reasonable assurance of the absence of Mexican spotted owls prior to any management activities occurring in an area; provide standard forms for collection and compilation of inventory, monitoring and suitable habitat stand characteristic data; and, to coordinate a Regional Mexican spotted owl data base.

The protocols provide standard definitions of terms used during inventory work. It provides the methods used to design survey routes, conduct the field outings, complete follow-up visits and complete all recordkeeping. It also requires a second year of inventory be completed for all sales selling after Fiscal Year (FY) 1990, and encourages a second year of inventory for sales selling prior to FY 1991, within funding and staffing levels.

There are two protocols in use in the Southwestern Region. The calling protocol developed in 1989 and included in the previous interim policy and a parabolic reflector protocol added with this interim policy. The reflector protocol provides standardized methods when using a hearing enhancement device. It is required on the Kaibab National Forest and optional on other Forests.

Summary of the Comments to Interim Directive No. 1

All comments received during last summer's 60 day comment period for Interim Directive No. 1 were grouped into categories based on similarity of the response. The following section provides representative comments from each category, followed by a response on how the comment was used during the Task Force's review of the Interim Directive. Comments were received from 2 state agencies (State), 1 federal agency (Federal), 4 timber industry representatives (Timber), 2 spotted owl researchers (Research), 3 environmental organizations (Environmental), over 120 individuals (Individual), and one group (Other) for which it was difficult to determine an affiliation. Generally, at least one response is provided for each

of the above groups that responded to the category.

A. General Reaction to Interim Directive

1. Good (Accept It)

State. "Most reports that I am getting from the field indicate that surveys and application of the guidelines are proceeding well, and the delineated areas appear to capture a significant portion of spotted owl habitat. In many cases we are able to dovetail implementation of the interim guidelines with the standards and guidelines of forest plans, thus having a minimal impact on timber harvest."

Research. "Overall, I think that the directive represents a good first step toward managing spotted owl habitat in the region."

Individual. "In regard to preserving the Spotted Owl in the National Forest, it is my opinion that whatever it takes to preserve any endangered species should be done."

2. OK (Accept With Reservations)

Timber. "We commend the Forest Service in Region 3 for its foresight in attempting to manage for the spotted owl. Through proper management, the Forest Service can maintain a viable population of owls and continue to offer timber at least up to the 400 million board feet per year level that has been established through the land management planning process. We are pleased with your direction that 'there will be little or no reduction in the amount of timber offered for harvest or under contract during the 1 year life of this interim directive on any given forest in the Region, nor will the guidelines preclude other activities described in the Forest Plans.' However, we are deeply concerned that the Forest Service will be unable to live up to this commitment."

Environmental. "As noted below, we have a number of concerns that have not been adequately addressed by the Region's adoption of these guidelines. At the same time we applaud the Region's recognition of the seriousness of this issue, and encourage you to follow through in this initial effort to preserve, enhance and provide for viable populations of the Mexican spotted owl throughout its range."

Individual. "My comment on the spotted owl dilemma in the Gila Forest would be that surely an agreement can be reached that will be acceptable to both 'sides' of this issue."

3. Poor (Do Not Accept)

Timber. "In order to continue with a viable timber management program in the Region, a decision must be made to relax, considerably, the over protective interim management guidelines. The Mexican Spotted Owl is obviously a very prolific, adaptable animal that has survived in the past with timber sales not affecting its existence. In fact, the abundance of this animal found on the Lincoln Forest, which was heavily logged in the past, may suggest that timber management enhances its survivability."

Environmental. "Although we support the guidelines' purpose of maintaining the viability of the Mexican spotted owl, an objective which is mandated by applicable law and governing documents, the guidelines will not achieve that purpose."

Individual. "I urge you to protect the Spotted Owl habitat by closing existing roads into those areas, halt the harvesting of old growth trees in these areas and everywhere until environmental impact assessments are completed and all of the National Forests in Region 3 have completed an inventory of our remaining Old Growth Forests."

Individual. "We love the forests and the birds and animals, but people come first. The owls can be preserved in a zoo."

Individual. "I believe keeping men in work is more important than closing it for a few owls when the owls can move over a little in the forest and live just as well."

Response: Overall, the substantive responses to this category view the Region issuing these guidelines as a positive step, but many respondents do not totally agree with all sections of the interim policy.

B. Process Questions for Interim Directive—National Forest Management Act (NFMA)

1. Does Not Meet NFMA

Timber. "The Regional Forester's spotted owl Interim Policy will significantly alter the outputs from the land management plans in Region 3 if the current trend in timber sale reductions continues, or if the ASQ level cannot be met * * *. Yet, the Forest Service will have made this change through a broad-brush Regional policy statement, rather than through the normal plan amendment process required by NEPA, NFMA, and the agency's own regulations and Manual direction."

Environmental. (This refers mainly to the Lincoln National Forest's smaller

core area.) "Also, at this time, there is no way to determine what constitutes a minimum viable population that the National Forest Management Act (NFMA) requires be maintained * * * to reduce by one-third the core area that was already significantly reduced below the minimum home range size documented by a task force representing expert opinion and a broad range of constituencies, is certainly not prudent management. Thus the guidelines, at least in the case of the Lincoln, apparently violate NFMA and its regulations. 36 CFR 219.19."

Response: The Forest Service sensitive species program is based on NFMA requirements to maintain viable populations of all native and desired non-native species. The Mexican spotted owl was added to the Southwestern Region's sensitive species list in 1983 because of concern for its viability due to changes in timber harvest practices proposed in the draft Forest Plans.

Although the Region does not have all of the information necessary to estimate the viability of the species, the interim policy should not have an adverse effect on the owl's viability during the next few years while collecting additional information on the species.

C. Process—Endangered Species Act (ESA)

1. Does Not Meet ESA

Environmental. "The listing by the Regional Forester of the owl as a sensitive species is done with the understanding that every effort will be made to promote full recovery. The owl is also listed by both the states of Arizona and New Mexico under their respective laws protecting sensitive species. The Forest Service has signed cooperative agreements with both states to the effect that state listed species will be protected as if listed under the Endangered Species Act (ESA). Species listed under the ESA require full protection independent of economic considerations."

2. Does Not Have to Meet ESA

State. "However, classification as a Candidate II species by USFWS does not require the FS to alter other resource uses. The following statement taken from USFWS regulations offers clear direction when an agency is confronted with a candidate listing: 'No legal consequences or protections shall arise under the Endangered Species Act as a result of the publication of a list of candidate species'."

Response: Authority to manage the habitat of the Mexican spotted owl comes from NFMA as described by Department of Agriculture Regulations found at Forest Service Manual 2670. The Endangered Species Act does not apply to the Mexican spotted owl at the present time. Should this sub-species become listed as threatened or endangered in the future, the Region will utilize appropriate sections of ESA, including conference/consultation, recovery, and so forth. However, the U.S. Fish and Wildlife Service (FWS) has received a petition to list the Mexican spotted owl. FWS is currently reviewing the status of the sub-species and will make a determination of whether listing is warranted in December, 1990.

D. Process—National Environmental Policy Act (NEPA)

1. Does Not Meet NEPA

Timber. "The Interim Policy appears to constitute an amendment to the forest plans in the Region without the necessary NEPA analysis or decision document."

Environmental. "The NEPA process was not used in this case nor was the public even informed that these guidelines were being formulated."

Individual. "I demand that the FS place a moratorium on its timber program in Spotted owl habitat and potential habitat until a complete Environmental Impact Statement has been completed."

Response: Opportunities for public involvement have been provided through the membership and work of the Spotted Owl Task Force. In addition, responses to the Federal Register notice of the prior guidelines were thoroughly reviewed and considered by the Task Force and Regional Forester. NEPA compliance is done at the Forest level during project implementation. The effects of implementing the interim policy are evaluated and displayed at this time.

E. Process—Sensitive Species

1. Listing as Sensitive Species is Appropriate

Individual. "I ask that Wildlife managers place a significant emphasis on conserving the habitat for the Spotted Owl. This species is categorized as a 'sensitive' species in the Lincoln. It is crucial that wildlife such as the Spotted Owl continue to exist."

Response: The Mexican Spotted Owl is listed as a Sensitive Species throughout Region 3 of the Forest Service. The Forest Service Manual contains a policy for and directs that all

Sensitive Species receive special management emphasis.

2. Listing as a Sensitive Species is Not Appropriate

State. "We are not convinced sufficient evidence exists to warrant a Forest Service (FS) listing of 'sensitive' for this species."

Individual. "I don't believe the Mexican owl is a 'sensitive species', as they have been found all over the Forest in cut areas as well as uncut areas."

Response: The Regional Forester establishes a Sensitive Species List following guidelines in the Forest Service Manual at 2670. The determination to classify the Mexican spotted owl as a sensitive species in 1983 was based on concerns for population viability and habitat management.

F. Guideline Content—Core Size

1. OK

State. " * * * we believe that the 450 acre core is adequate in size, and reflects the minimum habitat needs of breeding spotted owls as the limited field investigations to date have revealed them to be . . . The nest, roost, or location of an observed or heard owl should be at the center of the core rather than at the periphery."

Individual. "Based on currently available information, I continue to believe the 450 acre figure represents the lower limit."

Response: The Task Force agreed the core size was appropriate, and the Region increased the Lincoln's core size to the 450 acres used by all other Forests.

2. Too Large.

Timber. "As intensive inventories are discovering more spotted owls and in areas not thought to be preferential habitat the 450 acre core area should be relaxed."

Individual. "I wish to suggest that instead of closing area in question to logging operations because of the spotted owl population wouldn't it have less of an impact on the local economy to only shrink the size of the core area and still continue with some logging."

Response: The Task Force considered and evaluated two alternatives which would reduce the core size, including 100 and 300 acres. Studies providing necessary biological information to determine if changes to the core size are appropriate are not complete. The 100 acre alternative was removed from further in-depth analysis due to serious concerns for adverse effects it would

have on the population viability of the owl.

3. Too Small

Environmental. "Ganey found, in the only study to date that has produced data from radio-tagged owls, that the average home range size was 2092 acres and that 995 acres of this was ancient old growth forest. Within this home range was a high-use core area that averaged 993 acres which was composed primarily of ancient forest habitat. Yet the guidelines recommend that only a 450 acres core area having old growth characteristics be preserved, less than half what the best available information to date says is necessary."

Individual. "Each pair of owls should have at least a 2000 acre territory with no logging allowed there."

Response: The Task Force considered and evaluated several alternatives which would increase the core size, including 600, 1000, and 2000 acres, and these were included in the alternatives presented to the Regional Forester.

4. Lincoln Should Be 450

Other. The core area in the Lincoln National Forest should not be reduced to 300 acres rather than 450 acres due to apparently high densities of owls * * * Reduction in core area size promotes harvest activity over owl protection.

Environmental. "There is no scientific information that has been published that suggests Mexican spotted owl core areas should be smaller * * *. This reduced core size increases the potential that owls will be put in jeopardy as a result of land disturbing activities."

Individual. "A 350 acre core area is inappropriate and just another quick decision by the forest service to relieve themselves of the debate over timber and wildlife."

Response: The Task Force recommended increasing the core size on the Lincoln National Forest to 450 acres. The Regional Forester agreed.

5. Not Sufficient Information to Comment

Federal. "More information is necessary to determine if even a 450 acre core area is sufficient to provide nesting and roosting habitat for the Mexican spotted owls."

Response: Studies are currently underway or just beginning that are designed to provide information on habitat use and home range size.

G. Guideline Content—Core Activities

1. Too Restrictive

Timber. "Several forests will find it impossible to continue a sustained yield

of timber if the guidelines are not extremely relaxed in the very near future.

Response: The Task Force reviewed this and recommended no changes to the existing direction on activities in core areas. The Regional Forester agreed.

2. Not Restrictive Enough

Environmental. "Also, there should be absolutely no road construction allowed in owl areas. To make road building in core areas an option available to the manager is to invite abuse and destroy essential owl habitat."

Individual. "No new roads should be allowed in spotted owl territory and existing roads should be permanently closed."

Response: Road construction is allowed only when no other routes are available. Proposed road construction through a core area is analyzed under the biological evaluation process. Construction activities or traffic which may create disturbance to breeding pairs is prohibited during the reproductive season. Closing all existing roads through core areas was not considered/evaluated as there is no biological data on hand to warrant such action. Owls continue to successfully fledge young from Management Territories where roads have been in existence for many years. It is the professional opinion of several spotted owl experts on the Task Force that roads with seasonal restrictions represent a minor threat to the habitat capability and the welfare of the owl, especially as compared to timber management activities applied to the core area.

4. Not Sufficient Information to Comment

Federal. "The Fish and Wildlife Service does not have sufficient information available at this time to comment on the Interim Guidelines, specifically those that deal with establishment of territories and core areas."

Response: Studies are currently underway or just beginning that are designed to provide information on habitat use and home range size.

H. Guideline Content-Territory Size

1. OK

Timber. " * * * or possibly more management acres could be allocated and allowed within the 2000 acre buffer."

Individual. "Two thousand acres territory for each pair, single, or roost of

Spotted Owls located within or adjacent to proposed sale area seems excellent."

Response: The Task Force agreed the Territory size was appropriate for most of the Region. The Region reduced the core size on the Lincoln and Gila National Forests.

2. Too Large

Timber. "If 450 acres is an average of 60 percent of the area used by a pair of owls, then the entire territory should only be 750 acres, not the 2000 acres as presently defined in the guidelines."

Individual. "Back in the days when the West was settled, the Federal government felt an American family deserved 160 acres for purposes of homesteading. Now the government feels that a pair of owls deserves 2000 acres. Please explain why you feel the owl has more importance than the human race."

Response: Calculations made by some individuals making this comment were based on a misrepresentation of data "If 450 acres is an average of 60 percent of the area used by a pair of owls, then the entire territory should only be 750 acres, not the 2000 acres as presently defined in the guidelines". The data should be stated correctly as: 60 percent of the owl locations found during radio telemetry studies define the core area. This does not equate to 60 percent of the area. Owls in the telemetry studies used areas in excess of 2000 acres as their home range (used interchangeably with Territory in the guidelines)—therefore the commentators' mathematical formula is not applicable.

The Task Force considered and evaluated alternatives which would establish core areas but eliminate the delineation of a territory. Core sizes considered included 450, 600, 1000, and 2000 acres. All but the 2,000 acre alternative addressed reducing the total acreage established for the owls. The Region reduced the Territory size on the Lincoln and Gila National Forests.

3. Too Small

Research. "From Joe Ganey's study of Spotted Owls in Arizona we see that 2 out of 3 radio-tracked pairs had territories exceeding the 2000 acre average (2790 and 2550 acres). Taking these 2 pairs as examples, even if we did an excellent job of estimating what habitats should be included in the artificial 2000 acre territory, and then preserved that habitat, we may be providing 72 percent and 79 percent of the habitat those pairs indicated they need."

Individual. "First, I am afraid that the arbitrarily determined home ranges and core areas may present an unacceptably

low margin of error for maintaining the long term viability for a bird which may already be leading a precarious existence. For this reason I concur with Roger Skagg's recommendations to enlarge interim territory and core areas to 2500 and 700 acres respectively."

Response: See H-1.

4. Not Sufficient Information to Comment

Federal. "The Fish and Wildlife Service does not have sufficient information available at this time to comment on the Interim Guidelines, specifically those that deal with establishment of territories and core areas."

Response: Studies are currently underway or just beginning that are designed to provide information on habitat use and home range size.

5. Corridors Should be Used to Connect Territories

Other. "An integrated forest-wide system of corridor habitat protection should be developed between viable spotted owl populations. Without corridor habitat protection the populations may become physically isolated from each other reducing their gene pool mix and their inherent ability to survive."

Response: Current management will not reduce the ability to establish future corridors, if needed. Unsuitable habitat is the only current factor that may provide for demographic or genetic isolation of a portion of the population.

I. Guideline Content—Territory Activities

1. Too Restrictive

Timber. "Several forests will find it impossible to continue a sustained yield of timber if the guidelines are not extremely relaxed in the very near future."

3. Not Restrictive Enough

Other. "Only unevenaged management practices should be utilized within the 2000 acres. The management practices should create the best canopy stratification possible throughout the rotation age to assure optimum protection from weather and predators."

State. "The allowable harvest in the 1550 acres surrounding the core should be defined and limited to those actions that do not extensively remove the forest overstory."

Environmental. " * * * I would find it difficult to believe clearcutting would be an acceptable activity on acres within the territory and near the core area."

Individual. "I urge you to make a 2000 acre territory 100 percent off limits to logging be established for each pair of owls."

Response: The Task Force reviewed the activities allowed in the Territory and recommended no changes. The Regional Forester agreed.

4. Include Historical Activities in 516 Acres

Other. "We recommend that historical harvest activity should be considered as part of the allocated ground-disturbing activity within the 2000 acres. The present status of the 2000 acres may already be at the fringes of acceptable habitat protection and further harvesting could jeopardize the owls' protection."

Response: This is the policy in ID No. 1, but is revised for better clarity.

J. Protocol Content—Training

Environmental. "The guidelines also lack any definition of the training and quality controls which will be used to ensure that spotted owl surveys are conducted properly."

Environmental. "The concept of 'sufficient training' should be defined."

Individual. "I am concerned that the protocols do not clearly define what 'sufficient training' these individuals should have."

Response: Training standards are developed and are required for this year's inventory efforts. Persons doing inventory and monitoring are tested, and they have to pass prior to conducting inventory or monitoring work.

K. Protocol Content—Definitions

Timber. "Once again, the 'two or more auditory responses heard during at least four nighttime visits' needs better verbiage for complete understanding."

Response: Revised for clarity.

Timber. "The 1988 and 1989 surveys were limited to what was considered suitable habitat. Since observation indicates that the definition of suitable habitat is in need of expansion, this limitation presents a biased perspective or view of population densities, the extent of geographic distribution, and types of actual use habitat."

Response: Fiscal Year (FY) 1990 inventory includes large blocks of many different types of habitats. Stratification will provide information on relative densities by habitat type.

Research. "Most important, the definition of suitable habitat [5.1.(3)] should be independent of occupancy status, to conform with common usage * * * Habitat characteristics determine suitability, and current occupancy status does nothing to change those characteristics."

Response: Revised for clarity.

Environmental. "Under definitions, letter (h) Deferred Habitat, there is reference to activities deferred this decade, decade needs to be clarified."

Response: Revised for clarity.

L. Protocol Content—Technical Points

1. No Survey Was Done in Wilderness/ Reserve Lands

State. "We question the utility of the extensive searches for owls in the Gila National Forest (GNF) in areas set aside for multiple use management of renewable resources, without any attempt to census populations of owls in the two adjacent wilderness areas."

Individual. "Why aren't the owls being counted in the wilderness areas? Haven't the people of New Mexico done their share by setting aside so many acres to wilderness?"

Response: Because of limited funds, inventories were only done in activity areas until this year. Portions of non-activity lands are being inventoried on most Forests this fiscal year.

2. Be Flexible Where Needed

State. "Where we do not find owls, I believe we must be cautious and question the technique, the timing, the conditions, and any other factor that may be operating. For the most part I believe that our surveys are reflecting this flexibility * * *"

Environmental. "There is little question that these interim guidelines are a vital first step in offering managers an additional tool in addressing the need for sound management. We will all have to maintain a level of flexibility so we can respond to changing needs and greater knowledge."

3. Need a Confirmed Nest/ Roost To Establish Core/Territory

Timber. "However, establishment of large acreage territories based on vocalizations seems difficult to defend * * * A system of owl confirmation must be initiated and the territory allocation based on confirmation not just presence."

Response: The Task Force had several discussions on establishing Territories, and recommended no changes to the current practice of not requiring a confirmed nest or roost. If this practice were in effect, it would further delay activities. Since no activities would be allowed until a nest or daytime roost was established once a single owl had been heard on at least two occasions (inferred) or a visual observation was made.

4. Release of Territory

Timber. "If follow up visits and a next year's survey do not discover any spotted owls then it seems reasonable that no owls are located there and the area should be released to other management objectives."

Response: Once established, Management Territories will not be "released" during the life of this Interim Directive, including ones from the previous Interim Directive.

5. Core/Territory Establishment

Timber. "Nevertheless, core areas and territories are being established on the basis of what is the best available old-growth and/or stands in a condition approaching old growth characteristics, rather than on the basis of what is actually used or needed by the owl."

Research. "It seems possible to me that inventory could result in two or more separate locations, and consequently management areas, for a single territory, especially when only nighttime observations are available."

Environmental. "In addition, the guidelines have no requirements concerning activities that may occur adjacent to territories. This is a particular problem because the guidelines allow a core area to be located at the edge of a territory, and activity adjacent to a territory could therefore also be adjacent to a core area."

Environmental. "There is no guidance given to the configuration of core areas within the timber sale area."

Individual. "Are there no guidelines such as: core areas should not overlap; boundaries should be reasonably round and centered on a roost or where good information indicates a roost to be. A core certainly should not be 208 feet wide and 62800 feet long?"

Response: Management Territory and core area establishment sections are clarified.

6. Follow-up Visits

Research. "I also believe that follow-up visits should be separated from inventory work * * * Calling at dusk or dawn even days later would be far more productive than calling at midday within a few hours."

Response: Revised for clarity.

7. Need 2 Years Survey Now

Environmental. "The guidelines should have required that a second year of surveys be done immediately. Because the owl is non-vocal at least every other year, one year of surveys is not adequate to establish the absence of owls or to determine how many are

present in an area scheduled for logging and road building."

Response: The Task Force discussed this point prior to issuing Interim Directive No. 1, and determined it was not logistically possible to require two years survey at this time. However, all activities offered or permitted after September 30, 1990 are required to have two years of survey in areas where no Territories are established.

8. Procedures for When Owls Are Found Outside Activity Boundary

Environmental. "Another omission is not to require the mapping of core areas and buffer zones of owls outside the management boundaries when these territories spill over into or are adjacent to the timber sale area."

Response: Revised for clarity.

9. Calling for Pleasure/Reward System * * * Risk to Owls

Environmental. "Lastly, we think that casual calling of birds for non-scientific purposes is disruptive and, given the threats made to kill owls, dangerous. Also, the program on the Lincoln that offered rewards for finding nests was reckless and should not be instituted on other forests."

Individual. "Thirdly, I recommend that strict guidelines delineating appropriate behavior by forest service employees should be constructed and enforced. Group 'show and tell' is inappropriate management policy when it concerns such a docile and approachable animal, especially if it is soon to achieve T and E status."

Response: A section is added providing criteria for conducting show-me trips.

10. Develop New Protocol

Federal. "Information on monitoring data should be provided to the public when it becomes available prior to finalization of the guidelines."

Response: Guidelines may not be finalized for several years, and inventory and monitoring information is available to the public after it is compiled.

11. Do Second Year With Parabolic Reflector

Federal. "We are aware of the difficulties that have been experienced with the inventory protocols particularly those associated with calling. To establish the presence or absence of owls within suitable habitat that yield no response after survey by taped or vocal calls, we recommend the use of high power/ sensitive parabolic microphones to listen for calling spotted owls."

Response: The parabolic reflector protocol is being compared with the Regional calling protocol to determine if there are differences in detection rates.

M. Research

1. Need More Timber.

"For instance, minimum viable population levels should be determined as soon as possible * * * Such studies would more clearly define the extent to which more current population levels exceed minimum viable population levels and aid in determining the protection necessary through the establishment of core areas and territories."

Environmental. "Comprehensive research on the Mexican Spotted Owl is at this time woefully inadequate * * * These guidelines are based upon a single study * * *"

Federal. "More information is necessary to determine if even a 450 acre core area is sufficient to provide nesting and roosting habitat for the Mexican spotted owls."

Individual. "I question that adequate studies have been conducted in this country and Mexico to establish the need to protect this species of owl."

Individual. "I feel the lack of information has turned the issue into a joke."

Response: The Region and the Rocky Mountain Forest and Range Experiment Station are involved in additional research and administrative studies that include home range and habitat use, prey availability, prey species used, demographics, dispersal, survival, nest site characteristics, and habitat recognition. The Region and Station have over \$500,000 allocated for providing additional information in FY 1990 and have requested increased funds for FY 1991 and 1992. The results of these efforts over the next three to five years will provide information needed to develop final guidelines.

2. Hold Guidelines Until Get Sufficient Information

Environmental. "While we recognize the need for quick action, this could have been accomplished by using the NEPA process and still protecting the owl and its habitat. For example, logging and road building could have been delayed in identified owl habitat until comprehensive NEPA documents, with full public participation were prepared."

Individual. "I suggest any decisions regarding the size of habitat and core areas for the Spotted Owl wait until the facts are known."

Response: It was determined not necessary to do so.

3. No Activities in Territory Until Get Sufficient Information

Environmental. "Ganey concluded that 'until more information is available on population size, genetic structure of the population, and general biology of Mexican spotted owl, the only biologically defensible approach to management is total protection of the Spotted owl habitat.'"

Response: The Task Force determined total protection was not necessary at this time.

4. Specify Who Does Research

Environmental. "Section Seven, which sets the management direction, states that the guidelines may be adjusted if research indicates that the owl will not be adversely affected. The section does not specify, however, who is to conduct that research or what is meant by a finding that the owl will not be 'adversely affected.'"

Response: Creditable research must be collected scientifically and it must follow statistically valid design. Who collects the information is less important than how it is collected.

N. Effects on ASQ

1. Do Not Reduce

Timber. "Since the present guidelines were implemented with the belief that no net effect on timber sale programs would occur, a result not borne out in reality, the guidelines must be critically examined."

2. Reduce

Individual. "Reserve needs to look at diversifying its economy. The mill could continue to operate—perhaps at a lesser volume."

Response: Volume was included in the information reviewed by the Task Force prior to providing alternatives to the Regional Forester.

O. Interim Directive Restricts Other Uses

State. "As more owls are located, use restrictions on more land occurs, affecting various land uses such as timber harvest."

P. Old Growth

Timber. "It is presumed that spotted owl habitat is comprised mostly of old growth forest * * * It seems reasonable, therefore, that if a spotted owl is confirmed in an area that this become not only its territory, but also be allocated to the percentage of old growth acreage requirements."

Timber. "It appears that the Mexican spotted owl is thriving in all areas

where timbering activities have occurred over the years (that is, in areas where old growth has been selectively cut), as well as in other areas."

Individual. "No old-growth in our Southwest should be logged, ever again—there's such a little bit left!"

Individual. "The spotted owl is prevalent in old growth forest and cut forest according to your latest information."

Individual. "I urge that the FS end the practice of steep slope cable logging in Region 3. This form of timber harvest is the greatest threat to the remaining old-growth in the Southwest."

Response: Although "old-growth" may be ideal habitat for the Mexican spotted owl, there is no indication it is essential to maintain a viable population. Many of the 337 currently identified Management Territories contain little or no habitat that meets "old-growth" definitions. What they do contain are stands that meet suitable habitat conditions that range from 60 to over 300 years in age.

Q. Technical Corrections of Interim Directive

1. Need To Provide Compensation

Timber. "We agree that there will be situations where the Forest Service will be unable to replace volume from a sale area for a variety of reasons. The policy should state that the Forest Service will provide compensation to purchasers under CT3.312—*Rate Determination for Environmental Modification* when sales are modified and volume reductions occur."

Response: This is already a part of modifications made under C6.25.

2. Manage for Habitat

Research. "However, I am concerned that the (necessary) emphasis on inventory and habitat occupancy might obscure the fact that the ultimate management goal is to designate and manage sufficient habitat to maintain a well distributed population."

Environmental. "The guidelines also fail to protect suitable but unoccupied spotted owl habitat."

Individual. "My hope is while the Forest Service is looking for and studying the Spotted Owls, they will look at the underlying reasons as to the owls' productivity with these issues in mind: (1) What do the owls eat? (2) Who are the owls predators? (3) How will changing the habitat change the owls' activities? (4) What supports the owls' prey? (5) How much and what kind of territory will be available to new owls of the year?"

3. Revise Objectives Section

Research. "First, I believe that the *Objectives* section (2.) should reiterate two objectives of the national interagency agreement with the Fish and Wildlife Service, wherein the Forest Service agreed to:

(1) Designate and manage habitats to insure 'continued existence of a well distributed population';

(2) Specify standards and guidelines for the 'conditions and management of habitats designated to maintain reproductive pairs.' "

Response: Revised.

4. Revise Policy Section

Research. "Second, the *Policy* section (3.) should be amended to reaffirm the habitat management approach as follows:

a. Carry out inventory protocols as means of consistently identifying Mexican spotted owl habitat across physiographic regions.

b. Implement interim management guidelines for Mexican spotted owl habitat wherever and whenever it has been identified."

Response: Revised.

5. Harassment

Research. "While I accept some potential harassment of territorial birds by researchers, I strongly advise we discontinue casual show-me visits to sites, particularly those included in study samples."

Response: A section is added that provides criteria for show-me trips.

6. Do Not Talk About High Density, Abundance of Owls

Environmental. "In a more general sense, I am disturbed by the continued use of language that does not accurately portray the situation. The guidelines and other reports continue to refer to the 'abundance' and 'high density' of owls on the Lincoln National Forest and elsewhere in the region. These are relative terms that lend little to the discussion of owls in the southwest, and in fact they have the potential of misrepresenting the true condition."

Environmental. "However, abundance is a relative concept that has meaning only when compared to a baseline. There is no baseline data on the owl in the Lincoln or any other forest in the southwest * * * Greater numbers mean that more of the population will be impacted which should instill further caution and not scientifically unsupported reduction of the critical core area."

Individual. "Apparent high densities tell us nothing about trends and so should not be relied upon for

management decisions; they may also becloud the issue in the mind of the public."

Response: This was discussed by the Task Force, and it was generally agreed not enough is known about spotted owl density to say whether density is high or low, other than in a relative way.

7. Owls Do Not Use a Variety of Habitats

Environmental. "Another area where word selection is troubling is where Mexican spotted owls are characterized as inhabiting a wider variety of habitats than its cousin, the northern spotted owl . . . All studies to date indicate a strong preference to older, mixed conifer forests, particularly for nesting."

Individual. " * * * a few Mexican spotted owls are found in seemingly atypical habitats; such variation should be expected with any population. The great preponderance, however, occur in the older mixed conifer forests, and this is particularly true of nest sites."

Response: Mexican spotted owls do use a wider variety of habitats than the northern spotted owl. These varied habitats are often found in only one location. Thus far, all locations of Mexican spotted owl nesting and roosting habitat have met the definition of suitable habitat.

8. Cumulative Impacts

Environmental. "There must be a quantitative determination as to what constitutes cumulative impacts. Cumulative impacts must be seen as a function of both the amount of owl territory impacted and, just as importantly, the time scale over which these impacts occur."

Response: These are considered during a cumulative effects analysis, which is part of the Biological Evaluation process.

9. Preserve All Potential and Occupied Habitat

Environmental. "The only way to prevent the unintentional loss of an owl due to management activities is the total preservation of occupied and potential habitat."

Individual. "Finally it seems that the plan does not address suitable sites for future nesting as it only seeks to protect where existing birds are found."

Response: The Task Force discussed this issue and recommended only habitat with owls present be managed at this time.

10. Release Monitoring Data on 300 vs. 450 Acre Core Areas

Federal. "Results of ongoing studies monitoring owl utilization of core areas, specifically those core areas impacted by excluding timber harvest from a 300 acre core area versus a 450 acre core area, are necessary for an informed public evaluation of the guidelines."

Response: There are not now, nor will there be sites with just 300 acres in the core area. The Penway owls are the only ones with a core area coming close to 300 acres and their core is more like 375 acres. This pair of owls was found after the harvesting was completed within what would have been the core area. All other Management Territories on the Lincoln National Forest managed under the 300 acre core strategy have core areas of suitable habitat well in excess of 450 acres. Most exceed 1,000 contiguous acres of suitable habitat and a number of them exceed 1200-1400 acres.

11. Identify Task Force Members

Federal. "We recommend that the Forest Service identify the Federal, State and private organizations composing membership in the task force."

Response: Identified as to position.

R. Migratory Bird Treaty Act (MBTA)

Environmental. "The economic constraints of these guidelines are also not consistent with the provisions of the Migratory Bird Treaty Act of 1918, 16 U.S.C. sections 703-11, (MBTA). The MBTA forbids the killing, by any means or in any manner, of migratory birds. *Id.* at Sec. 703. The regulations implementing the MBTA list the spotted owl as a migratory bird protected by the Act."

Response: The interim policy meets the requirements of the Migratory Bird Treaty Act.

S. Spotted Owl MOU With FWS

Environmental. "First, the December 1, 1987 Interagency Agreement between the Forest Service and the United States Fish and Wildlife Service requires the Forest Service to take several steps to maintain population viability for the owl."

Response: This interim policy is one of those steps.

T. Responsibility

1. Forest Biologist

Environmental. "In addition, the responsibility of the forest biologist should be more clearly defined. It is vital that he/she be responsible not only for the core area determination, but should also work closely with

silviculturalists, engineers and others in determining which activities can occur in the territory and where."

2. Who Does Quality Control

Research. "The guidelines describe who will delineate territory and core boundaries, but there is no reference about accountability after lines have been drawn * * * Who will ensure that office decisions are accurately executed in the field?"

3. Identify Task Force Responsibility

Federal. "The Forest Service should also identify the responsibility and limits of authority of the task force to provide recommendations and your (Regional Forester) responsibility to accept task force recommendations."

Response: Additions and revisions are made to the Responsibilities section of a number of positions. The Task Force responsibilities are being identified in a Charter.

U. Consistency—Ensure It!

Environmental. "It is imperative that consistency be built into the inventory protocol, including sufficient training of qualified personnel and that the use of volunteers be discouraged if not denied."

Response: Monitoring Forest and District activities for application of the interim policy is part of the spotted owl program manager's responsibilities.

V. Community Stability

1. People Come First

Individual. "This land belongs to the people first, and in Catron County their security and livelihood depends on the logging and use of the forest."

Individual. " * * * it's a bunch of bull allocating so much land to the spotted owl. All the issue is for is to get the rancher, logger and miner off the public lands for the environmentalists for their own pleasures."

2. Owls Come First

Individual. " * * * it is my opinion that whatever it takes to preserve any endangered species should be done."

3. Both Are Possible

Individual. "If each side gives a little perhaps we can save the owl and save the jobs."

Individual. "I ask that you consider the actual needs of this owl, and strike a balance between the need to protect the natural environment and the economic needs of the area."

4. Kill the Owls, etc.

Individual. "Considering my background of being the daughter of a

homesteader I believe in killing all owls—have never known of any good to the land or people. They caught our chickens which was part of our livelihood."

Response: Social and economic analysis was done on the alternatives the Task Force provided to the Regional Forester and considered in the decision.

W. Site Specific Areas

All comments that mention a specific site have to do with that group or individual's knowledge of that area. The responses themselves are not site specific, except for the responses to the reduced core area size on the Lincoln.

X. Public Involvement

Federal. "Advising the public at this time of the interim guideline and inventory protocols will help provide a better understanding of the efforts being made to protect the Mexican spotted owl while still accommodating other forest uses."

Response: The Federal Register notification of the previous interim policy and this revision accomplish this.

Summary of Interim Policy and Monitoring and Inventory Protocol

The revisions to the Interim Directive and inventory protocol, and the addition of the monitoring protocol, issued through an interim directive at Forest Service Manual 2676.2, are in keeping with the provisions of the National Cooperative Agreement on Mexican spotted owl Management signed December 1987 between the Forest Service and the U.S. Fish and Wildlife Service, and later signed by the Bureau of Land Management and National Park Service. Analysis by the Forest Service indicates there should be little or no reduction in the amount of timber offered for harvest or under contract during the one to one and one-half year life of this interim directive on any given Forest in the Region, nor should the guidelines preclude other activities in the Forest Plans.

R. Forrest Carpenter,
Deputy Regional Forester.

[FR Doc. 90-15288 Filed 6-29-90; 6:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

California Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the California Advisory Committee

to the Commission will convene at 10:00 a.m. and adjourn at 2:00 p.m. on July 20, 1990, at Burbank Hilton Hotel, 2500 Hollywood Way, Burbank, California 91505. The purpose of the meeting is program planning and discussion of projects submitted to the Chair.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Michael C. Carney or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 26, 1990.
Wilfredo J. Gonzalez,
Staff Director.
 [FR Doc. 90-15325 Filed 6-29-90; 8:45 am]
 BILLING CODE 6335-01-M

New Jersey Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 4:00 p.m. on Thursday, July 12, 1990, at the East Brunswick Public Library, 2 Jean Walling Civic Center, East Brunswick, NJ 08816. The Committee will plan a prospective program dealing with causes of racial tension in the State. The Committee will also release *Equal Educational Opportunity for Minority Students In The Morris School District*, a recent community forum summary report.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Zulima Farber on John I. Binkley, Director, Eastern Regional Division at (202) 523-5264, TDD (202) 376-8117. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 26, 1990.
Wilfredo J. Gonzalez,
Staff Director.
 [FR Doc. 90-15324 Filed 6-29-90; 8:45 am]
 BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 9101-01]

Action Affecting Export Privileges; Franciscus Govaerts, et al.

In the Matter of: Franciscus Govaerts individually and doing business as Printlas Europa; Appellant.
 [Docket Nos. OEE-1-90.01; OEE-1-90.02]

Final Decision and Order

Summary

Pursuant to the June 19, 1990 Supplemental Recommended Decision and Order of the Administrative Law Judge ("ALJ"), which I accept in part and modify in part, I hereby deny the appeal by Franciscus Govaerts ("Govaerts"), individually and doing business as Printlas Europa, with an address of Torenakker 8-5731 CC, Mierlo, Holland, of the Assistant Secretary of Export Enforcement's April 2, 1990 renewal of the temporary denial order ("TDO") in effect against Govaerts. The continued denial of export privileges is warranted because there is still reason to believe that the TDO is required in the public interest to prevent an imminent violation of the Export Administration Act ("Act")¹ the Regulations,² or any order, license or other authorization issued under the Act.³ Barring any further renewals, the TDO will remain in effect until the scheduled expiration date of October 2, 1990.

Background and Discussion

The ALJ issued his original Recommended Decision and Order in this case on June 4, 1990. In that decision, the ALJ recommended that Govaerts' appeal be granted and the TDO vacated effective June 20, 1990 unless a charging letter was issued before that date. In reaching this decision, the ALJ never addressed the issue of imminent violation, but rather, found that the continued extension of the TDO, absent the issuance of a charging letter, constituted an abuse of that extraordinary remedy.

¹ 50 U.S.C.A. app. sections 2401-2420 (Supp. 1989).

² 15 CFR parts 768-799 (1989).

³ See section 13(d) of the Act; 15 C.F.R. § 788.19 (1989).

On June 11, 1990, I remanded this case to the ALJ in order that he might address the factual issue as to whether there is still reason to believe that the TDO is required in the public interest to prevent an imminent violation of the Export Administration Act, the Regulations, or any order, license or other authorization issued under the Act. *See* Under Secretary for Export Administration Decision and Order, dated June 11, 1990.

In his Supplemental Recommended Decision and Order of June 19, 1990, the ALJ finds that the record with respect to the original TDO and the renewals of same incorporates the requisite statutory finding that it is reasonable to believe that the order is required in the public interest to prevent an imminent violation of the Act. *See* Supplemental Recommended Decision and Order, dated June 19, 1990, at 3.⁴

Consequently, despite Govaerts' arguments on appeal,⁵ the ALJ believes that the evidence currently on the record firmly supports the second renewal of the TDO. I concur fully with this portion of the ALJ's findings. Even though there is some evidence of Govaerts' cooperation with U.S. officials in the parallel criminal actions,⁶ such evidence is not enough to overcome the Department's reason to believe that the past activities of Govaerts reflect a pattern of disregard for the Act and Regulations and that, absent the continued temporary denial Govaerts will continue to pose a threat to the national security of the United States. *See* Department Memorandum, dated March 13, 1990. For all of the reasons, I

⁴ During the appeal of the first renewal of the subject TDO, the ALJ found that (1) the evidence submitted reflects a reasonable possibility that appellants engaged in efforts to export controlled equipment unlawfully from the United States to Bulgaria; (2) the record reflects that appellants may have had the means to continue such efforts; (3) appellants have failed to overcome the necessary showing that a finding of an imminent violation is unsupported; and (4) there is reason to believe that the TDO is required in the public interest to prevent an imminent violation of the Act and Regulations. *See* Recommended Decision, dated November 2, 1989, at 3-4.

⁵ In his March 23, 1990 submission, Govaerts argues that he has cooperated fully with U.S. Customs to get other co-conspirators arrested and convicted, has fallen victim to threats against his life for testifying against his co-conspirators and has vowed never to make the same mistake again.

⁶ Agency counsel has produced a copy of the indictment against Sanders, a co-conspirator, which charges that Sanders and others conspired in March 1989 to directly and indirectly corruptly give, offer and promise a thing of value to Govaerts with intent to influence his testimony under oath and with the intent to influence Govaerts to refuse to testify. *See* Memorandum from Deputy Chief Counsel for Enforcement and Litigation to Assistant Secretary for Export Enforcement, dated March 13, 1990, Exhibit 3.

accept the ALJ's recommendation that Govaerts' appeal be denied.

While that ALJ recommended that Govaerts' appeal be denied, he recommended that "unless a charging letter issue on or before June 28, 1990, the Temporary Denial Order will expire and terminate effective June 29, 1990." See Supplemental Recommended Decision, dated June 19, 1990, at 4. Agency counsel now advises that on June 19, 1990, the Office of Export Enforcement filed with the ALJ a charging letter alleging that Govaerts has violated the Act and Regulations. See United States Department of Commerce Submission Concerning Supplemental Recommended Decision, dated June 25, 1990, at 2. Because the issuance of the charging letter in this case has rendered the above portion of the ALJ's Supplemental Recommended Decision and Order moot, I am modifying the ALJ's Decision and Order by deleting the conditional language in my Final Decision and Order. Thus, barring any further renewals, the TDO will remain in effect for the scheduled 180 days and will expire on October 2, 1990.

Order

On June 19, 1990, the ALJ entered his Supplemental Recommended Decision and order in the captioned matter. That Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. In keeping with the Discussion and Findings above, I hereby accept in part and modify in part the Supplemental Recommended Decision and Order of the ALJ as follows:

A. I hereby accept that portion of the ALJ's Decision which denies the appeal by Franciscus Govaerts ("Govaerts"), individually and doing business as Printlas Europa, with an address to Torenakker 8—5731 CC, Mierlo, Holland, of the Assistant Secretary for Export Enforcement's April 2, 1990 renewal of the temporary denial order in place against Govaerts.

B. I hereby modify the ALJ's Decision, striking the language "Further, that unless a charging letter issue on or before June 28, 1990, the temporary denial order will expire terminate effective June 29, 1990." Accordingly, barring any further renewals, the TDO shall remain in effect for the scheduled 180 days and will expire on October 2, 1990.

This constitutes final agency action in this matter.

Date: June 28, 1990.

Joan M. McEntree,
Acting Under Secretary for Export
Administration.

Appearance for Respondent: Franciscus
Govaerts, Printlas Europa,
Torenakker 8—5731 CC, Mierlo,
Holland.

Appearance for Agency: Pleasant
Broadnax, Esq., Office of Chief
Counsel for Export Administration,
U.S. Department of Commerce,
Room H-3837, 14th & Constitution
Avenue, NW., Washington, DC
20230.

Addendum

Following the issuance of the Recommended Decision in this matter, the secretarial delegate remanded the case on the grounds that there was an error requiring reconsideration.¹ There was no such error.

Contrary to the Secretarial conclusion that " * * * the ALJ has reversed his recommendation from 7 months ago without ever reaching the issue of whether there is a possibility of imminent violation, the only issue to be considered is a request for a renewal of a TDO", the recommendation does not state that there is no adequate basis but rather suggests that the abuse involved in renewing the temporary denial order, by the continued absence of a charging letter, warrants terminating that order.²

This is not a new proceeding. It is a renewal. If it were not so considered, it would fail. The record of this renewal, standing alone is insufficient. When it is considered with the record of the initial TDO it is adequate. And so it is with the administrative law judge review on appeal. It too relies upon, incorporates and builds upon the facts and findings made in the earlier appeal. There has been no change in factual

¹ The statute authorizes the Secretary to accept, reject, or modify the recommendation of the administrative law judge within 5 working days. It does not authorize remand. Cf. *Dart v. United States*, 848 F.2d 217 (D.C. Cir. 1988). The 30-day period allowed for response to the unauthorized remand also lacks a legal basis. The statute allows a total of 15 working days for the appeal process (which has now expired). The Secretary may not create a timetable in derogation of that fixed in the statute. It is also interesting to note that Agency Counsel who appeared in this proceeding raised no alleged deficiency. It is in the rotation among members of the General Counsel's staff that a myriad of different goblins will ever be asserted. While the Secretary may defer to legal counsel in his decisions in these matters, it is probably improper, and in any event, does not impress this Tribunal. Either Counsel's view of the law and evidence is that and nothing more. Independence of judgment is the adjudicators personal responsibility at every level of participation.

² The result is similar to that which resulted with respect to the related temporary denial order involving *Grandia* 52 FR 19902, May 28, 1987

circumstances. The record and recommendation with respect to the temporary denial order incorporates the requisite statutory finding that it is reasonable to believe that the order is required in the public interest to prevent an imminent violation of the Act.³

Contrary to the comments in the Secretary's remand, more than a conclusion that the required statutory finding of a reasonable belief that the order is required in the public interest to prevent an imminent violation of the Act is appropriate to consider in these cases. Abuse of process, including delay, as well as other causes, may be a basis for modifying the proposed or implemented action. The extent of the denial imposed is also appropriate for consideration at each level of review. Such extraordinary actions should be taken through use of the minimum temporary denial necessary to achieve the protection required.⁴ For example, the practice of imposing total denial may, in some cases, be more than is appropriate to prevent violations of the act.

The administrative law judge's recommendation was phrased in an earnest attempt to move the proceeding along. Export Enforcement has a history of foot dragging. Since 1985, by statutory mandate, the proceedings have moved with some, albeit inadequate, speed. The Secretary should want it so. Earlier cases languished for years. The statutorily mandated one year time in which to process these cases has been most effective. The time periods applicable to temporary denial orders should also be routinely met. The record here reflects no difficulty or problem with initiating a charging letter, which is far less complicated than the continued temporary denial order renewals. Yet almost a year after a criminal conviction and sentencing in a U.S. District Court, without excuse or basis, respondent remains uncharged.⁵

³ Not merely a "possibility".

⁴ The hearing provisions in the temporary denial order renewal have not been overlooked. The case in another instance illustrating the procedural difficulty with the hearing provision, principally because of the time constraints involved. The temporary denial order initiation and renewal process are appropriately brief. The respondents attempt to contest the renewal was rolled over into this appeal because of the time limits and normal communications delays with foreign respondents. The fact that the administrative record contains no date stamps or other indication of actual receipt, only serves to further illustrate the problems with accelerated proceedings and why the opportunity for full adjudicatory determination should be promptly afforded.

⁵ Misuse of the temporary denial order process is also manifest in pre-July 1985 extraordinary process in that a number of such cases initiated without legislative authority for what was to have been 30

Continued

Recommendation

That the appeal be **DENIED**. Further, that unless a charging letter issue on or before June 28, 1990 the Temporary Denial Order will expire and terminate effective June 29, 1990.

So Ordered.

Hugh J. Dolan,

Administrative Law Judge.

Date: June 19, 1990

[FR Doc. 90-15287 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Docket 28-90]

Foreign-Trade Zone 2—New Orleans, LA; Avondale Industries, Inc. (Shipbuilding)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Board of Commissioners of the Port of New Orleans, grantee of FTZ 2, requesting special-purpose subzone status for the shipbuilding and industrial fabrication facilities of Avondale Industries, Inc. (Avondale), in Jefferson and Orleans Parishes, Louisiana, within the New Orleans Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 25, 1990.

The proposed subzone will encompass Avondale's four shipbuilding facilities: Main Shipyard (250 acres), 5100 River Road on the Mississippi River, Avondale; Westwego facility (17 acres), River Road, Westwego (5 mi. downriver from Main Shipyard); Harvey facility (8 acres), 3860 Peters Road, Harvey; and, Algiers facility (156,411 sq. ft.), 3101 Paterson Road, New Orleans (16 mi. downriver from Main Shipyard).

The facilities are used in the construction, repair and conversion of commercial and military vessels for domestic and international customers. Avondale intends to use zone procedures in conjunction with its shipbuilding operations at the facilities, which employ some 8,000 persons. Foreign components used by the company include transformers, compressors, clutches, switchboards, gate valves, compasses, telescopes, control consoles, ladders and lifeboats.

days have remained in effect for over 7 years. The post-July 1985 statutory process does not deserve similar abuse.

Zone procedures will help Avondale reduce production costs on its current orders and compete internationally for new contracts. Most of the imported components are subject to duties, which range from 2 percent to 8 percent, while the finished products, as oceangoing vessels, are duty free.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Joel R. Mish, District Director, U.S. Customs Service, South Central Region, 423 Canal Street, suite 245, New Orleans, LA 70130-2341; and, Colonel Richard V. Gorski, District Engineer, U.S. Army Engineer District New Orleans, P.O. Box 60267, New Orleans, LA 70160-0267.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before August 20, 1990.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 432 World Trade Center, 2 Canal Street, New Orleans, LA 70130. Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 2835, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

Dated: June 26, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90-15281 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-DS-M

[Docket 26-90]

Proposed Foreign-Trade Zone—Rockford, IL: Application for Subzone; Clinton Electronics Cathode Ray Tube Plant, Loves Park

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Rockford Airport Authority, whose application for a general-purpose foreign-trade zone in Rockford is pending (55 FR 13301, 4/10/90), requesting special-purpose subzone status for the cathode ray tube manufacturing plant of Clinton Electronics Corporation (CEC) located in Loves Park, Illinois, adjacent to the Greater Rockford Airport, a Customs user fee airport facility. The application was submitted pursuant to the

provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 20, 1990.

The CEC plant is located at 6701 Clinton Road, Loves Park, Illinois, some 10 miles north of the Greater Rockford Airport. The facility (31 acres, 600 employees) is used to produce monochrome cathode ray tubes (3-23 inches) for data and graphics displays (non-TV uses). The finished tubes are shipped to manufacturers of computer data and graphics displays and terminals. Foreign-sourced components account for some 60 percent of the finished tubes' value, and include glass envelopes, assembled electronic mounts and phosphorus. Some 20 percent of the products are exported.

Zone procedures would exempt CEC from Customs duty payments on the foreign material used in its exports. On its domestic sales, the company would be able to choose the finished cathode ray tube duty rate (6%). The duty rates on the components range from 3.7 to 10.0 percent. The applicant indicates that zone savings will help improve CEC's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the applications and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Richard Roster, District Director, U.S. Customs Service, North Central Region, 610 S. Canal Street, Chicago, Illinois 60607; and Colonel John R. Brown, District Engineer, U.S. Army Engineer District Rock Island, P.O. Box 2004, Rock Island, Illinois 61204.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before August 16, 1990.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Customs Service Office, Greater Rockford Airport, 4 Airport Circle, Rockford, Illinois 61109

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., room 2835, Washington, DC 20230.

Dated: June 25, 1990.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 90-15282 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 27-90]

Foreign-Trade Zone 84—Harris County, TX (Houston Customs Port of Entry); Application for Subzone; Gulf Coast Maritime Supply Export Distribution Facility, Houston, TX

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Houston Authority, grantee of FTZ 84, requesting special-purpose subzone status for the export distribution facility of Gulf Coast Maritime Supply, Inc. (GCMS), located in Houston, Texas, within the Houston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 22, 1990.

The GCMS facility (1.3 acres), located at 5922 Harvey Wilson Drive, is used to distribute tax free and duty free merchandise, such as beer, liquor, and tobacco products to internationally destined vessels and aircraft and to duty free shops and consulates.

Zone procedures would exempt GCMS from Customs duty payments and federal excise tax payments on foreign merchandise that is reexported, and would exempt the company from federal excise tax payments on domestic merchandise that is shipped directly from the manufacturer and admitted to the subzone in zone restricted status (GCMS has licenses from the Bureau of Alcohol, Tobacco and Firearms). The applicant indicates that zone savings would help the facility compete with other such facilities in foreign countries.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Paul Rimmer, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Felipe Street, Houston, Texas 77057-3012; and Colonel Brink P. Miller, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, Texas 77553-1229.

Comments concerning the proposed subzone are invited in writing from

interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before August 16, 1990.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 2625 Federal Courthouse Building, 515 Rusk Street, Houston, Texas 77002.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue NW., room 2835, Washington, DC 20230.

Dated: June 25, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90-15283 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-588-005]

High Power Amplifiers From Japan Intent to Revoke Antidumping Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping order on high power amplifiers from Japan. Interested parties who object to this revocation must submit their comments in writing not later than July 31, 1990.

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT: David Mason or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 1982, the Department of Commerce ("the Department") published an antidumping order on high power amplifiers from Japan (47 FR 31413). The Department has not received a request to conduct an administrative review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the

Department's regulations (19 CFR 353.25(d)(4)), we are notifying the public of our intent to revoke this order.

Opportunity To Object

Not later than July 31, 1990, interested parties, as defined in § 353.2(k) of the Department's regulations (19 CFR 353.2(k)), may object to the Department's intent to revoke this antidumping order.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by July 31, 1990, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by July 31, 1990, we shall conclude that the order is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: June 25, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-15285 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-020]

Pig Iron From Canada; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on pig iron from Canada. Interested parties who object to this revocation must submit their comments in writing not later than July 31, 1990.

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT: Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On July 24, 1971, the Department of Treasury published an antidumping finding on pig iron from Canada (36 FR 13780). The Department of Commerce ("the Department") has not received a request to conduct an administrative

review of this order for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations (19 CFR 353.25(d)(4)), we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than July 31, 1990, interested parties, as defined in § 353.2(k) of the Department's regulations (19 CFR 353.2(k)), may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by July 31, 1990, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by July 31, 1990, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: June 25, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-15284 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-041]

Synthetic Methionine From Japan; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Intent to Revoke Antidumping Finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on synthetic methionine from Japan. Interested parties who object to this revocation must submit their comments in writing not later than July 31, 1990.

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT: Dennis Askey or John Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On July 10, 1973, the Department of Treasury published an antidumping finding on synthetic methionine from Japan (38 FR 18382). The Department of Commerce ("the Department") has not received a request to conduct an administrative review of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by section 353.25(d)(4) of the Department's regulations (19 CFR 353.25(d)(4)), we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than July 31, 1990, interested parties, as defined in § 53.2(k) of the Department's regulations (19 CFR 353.2(k)), may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by July 31, 1990, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by July 31, 1990, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: June 25, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-15286 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the Wood Machinery Manufacturers of America. Notice of issuance of the Certificate was published in the Federal Register on February 9, 1989 (54 FR 6312).

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of

Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. sections 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 88-00016 was issued to the Wood Machinery Manufacturers of America (WMMA) on February 3, 1989. Notice of issuance of the Certificate was published in the Federal Register on February 9, 1989 (54 FR 6312).

WMMA has amended its Certificate to add the following companies as "Members" of the Certificate: American Machine Corp., Van Nuys, CA; Midwest Automation, Inc., Minneapolis, MN; Nolton Johnson Manufacturing, Inc., Bend, OR; and A.G. Raymond & Company, Inc., Raleigh, NC.

EFFECTIVE DATE: March 29, 1990.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: June 26, 1990.

George Muller,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 90-15278 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-DR-M

Short Supply Review; Certain Modular Steel Scaffolding

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice of Short-Supply Review and Request for Comments; Certain Modular Steel Scaffolding.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 1,650 metric tons of certain modular steel scaffolding for the remainder of 1990 under Article 8 of U.S.-EC steel arrangement.

SHORT-SUPPLY REVIEW NUMBER: 20.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Pub. L. No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and 357.104(b) of the Department of Commerce's Short-Supply Regulations, published in the Federal Register on January 12, 1990, 55 FR 1348 ("Commerce's Short-Supply Regulations"), the Secretary hereby announces that a short-supply determination is under review with respect to certain modular steel scaffolding. On June 22, 1990, the Secretary received an adequate petition from Layher, Incorporated, a subsidiary of Wilhelm Layher GmbH & Co. KG of Gueglingen-Eibensbach in the Federal Republic of Germany, requesting a short-supply allowance for 1,650 metric tons of this product during the remainder of 1990 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products.

The requested material meets the following specifications:

General: Allround Modular System scaffold including three basic components—Vertical Standard, Horizontal Ledger and Diagonal Brace. Base, decks and supplementary elements to order. Components fastened by Allround joint; *Metallurgical:* Galvanized steel;

Dimensions: Components compatible with imperial and metric requirements. Sized to order: Standards 1.0-4.0 meters), Ledgers (0.73-1.09 meters), Braces (0.73-3.07 meters). Tubing utilized in Standards and Ledgers is per German Standards DIN 2441, 48.3 mm diameter (1.90 inches +) and 3.2 mm wall thickness (0.13 inches);

Design Features: Allround joint, a "rosette" with holes at 0°, 90°, 180° and 270° on circular disk to facilitate square assembly. Second series of four, larger joint holes provide angular connections for Braces and Ledgers to permit circular configuration. Ledgers and Braces connected to Standards by wedge locks anchored in joint holes, creating rigid friction connection.

Intended Applications: For use in unique industrial applications, e.g., petrochemical, paper and power plant maintenance, airline and shipbuilding facilities.

Section 4(b)(4)(B)(ii) of the Act and § 357.106(b)(2) of Commerce's Short-Supply Regulations require the Secretary to make a determination with respect to a short-supply petition not later than the 30th day after the petition is filed, unless the Secretary finds that one of the following conditions exist: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that none of these conditions exist with respect to the requested product, and therefore, the Secretary will determine whether this product is in short supply not later than July 20, 1990.

Comments

Interested parties wishing to comment upon this review must send written comments not later than (July 9, 1990) to the Secretary of Commerce, Attention: Import Administration, Room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. Interested parties may file replies to any comments submitted. All replies must be filed not later than 5 days after (July 9, 1990). All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must

reference the above-noted short-supply review number.

FOR FURTHER INFORMATION CONTACT:

Sally A. Craig or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230, (202) 377-3910 or (202) 377-0159.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-15280 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review of Certain Hot-Rolled DGA Alloy Steel Strip

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice of Short-Supply Review and Request for Comments.

SUBJECT: Short-Supply Review: Certain Hot-Rolled DGA Alloy Steel Strip.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 700 net tons of certain hot-rolled D6A alloy steel strip under Article 8 of the U.S.-EC steel arrangement.

SHORT-SUPPLY REVIEW NUMBER: 21.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Pub. L. No. 101-221, 103 Stat. 1886 (1989) ("the Act"), and § 357.104(b) of the Department of Commerce's Short-Supply Regulations, published in the Federal Register on January 12, 1990, 55 FR 1348 ("Commerce's Short-Supply Regulations"), the Secretary hereby announces that a short-supply determination is under review with respect to certain hot-rolled D6A alloy steel strip used in the production of bi-metal band saws. On June 28, 1990, the Secretary received an adequate short-supply petition from Theis Precision Steel Corporation ("Theis") for 700 net tons of this product under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products.

The requested product is a certain grade of D6A steel hot-rolled strip (black or descaled as specified by purchase order) suitable for electron beam welding that meets the following specifications:

Thickness range: 0.080 - 0.125 inch;

Width range: 10-16 inches;

Chemical Composition (Ladle

Analysis): Carbon (0.45 - 0.50); Manganese (0.60 - 0.90); Phosphorus (0.015 max.); Sulfur (0.010 max., aim as low as possible); Silicon (0.10 - 0.25); Nickel (0.50 - 0.70); Chromium (0.90 - 1.10); Molybdenum (0.90 - 1.10); Vanadium (0.08 - 0.15); Copper (0.20 max.); Aluminum (0.05 - 0.10, acid soluble); Hydrogen (15 ppm max.); Nitrogen (300 ppm max.); and Oxygen (150 ppm max.);

Condition: High quality steel made by the best steelmaking practice necessary to produce an extremely clean sound steel required for good electron beam welds;

Quality Requirements of Hot-Rolled Strip

a. Non-Metallic Inclusion Rating:

Utilize a sampling plan as outlined under Article 6 of ASTM E45-81.

b. Surface Quality: Inspection of the hot acid descaled surface shall reveal no detrimental surface defects such as slivers, shingle seams, lubs, cold shuts, etc. which would affect the finished cold-rolled product;

Internal Soundness: A transverse section deep etched in hot acid and examined shall show no primary or secondary pipe, excessive segregation porosity or other injurious internal defects;

Microstructure

a. Grain size: The McQuaid Ehn grain size shall be fine 8-8 as determined in accordance with ASTM E112-81 Annex A-3.

b. Decarburization: Shall be determined on transverse specimens taken one inch from the edges and the center of the strip properly polished and etched and microscopically measured for partial and complete decarburization.

c. General Microstructure: Shall be typical hot band fine pearlitic structure with minimum martensite;

Edge: Shall be the natural #2 mill edge or #3 slit edge and does not have to conform to any definite contour;

Size Variation Limits

a. Width: The tolerance for mill edge width shall not exceed ± 0.062 inch for a width of 10 inches and ± 0.094 inch for widths over 10 inches.

b. Camber: Shall be measured by placing an 8 foot straight edge on the concave side edge and measuring the greatest distance between the straight edge and the steep strip. The camber shall not exceed $\frac{1}{4}$ inch in 8 foot;

Size of Coils: The inside diameter shall be 16-24 inches. The outside diameter shall be 54 inches max. with 16 inches I.D.; however, 58 inches max. O.D. shall be allowed with 20-24 inches I.D. if the band is pickled and annealed. There shall be no fish tail ends.

Section 4(b)(4)(B)(i) of the Act and § 357.106(b)(1) of Commerce's Short-Supply Regulations require the Secretary to make a determination with respect to a short-supply petition not later than the 15th day after the petition is filed if the Secretary finds that one of the following conditions exists: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. Because the Secretary has made affirmative short-supply determinations for this product in each of the two immediately preceding years, a decision will be made no later than July 11, 1990. In accordance with section 4(b)(4)(B)(i)(II) of the Act and § 357.106(b)(1)(ii) of Commerce's Short-Supply Regulations, the Secretary is applying a rebuttable presumption that this product is presently in short supply. Unless domestic steel producers provide comments in response to this notice indicating that they can and will supply this product within the requested period of time, provided it represents a normal order-to-delivery period, the Secretary will issue a short-supply allowance not later than July 11, 1990.

Comments

Interested parties wishing to comment on this review must send written comments not later than July 9, 1990 to the Secretary of Commerce, Attention: Import Administration, Room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230. All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly

concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above-noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Sally A. Craig or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230, (202) 377-3910 or (202) 377-0159.

Dated: June 27, 1990.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 90-15368 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

Announcement of Meeting of National Conference on Weights and Measures

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given that the 75th Annual Meeting of the National Conference on Weights and Measures will be held July 8 through 13, 1990, at the J.W. Marriott Hotel, Washington, DC. The meeting is open to the public.

The National Conference on Weights and Measures is an organization of weights and measures enforcement officials of the States, counties, and cities of the United States, and private sector representatives. The interim meetings of the conference held in January 1990 as well as the annual meeting, bring together enforcement officials, other government officials, and representatives of business, industry, trade associations, and consumer organization to discuss subjects that relate to the field of weights and measures technology and administration.

Pursuant to section 2(5) of its Organic Act (15 U.S.C. 272(5)), the National Institute of Standards and Technology acts as a sponsor of the National Conference on Weights and Measures in order to promote uniformity among the States in the complex of laws, regulations, methods, and testing

equipment that comprises regulatory control by the States of commercial weighing and measuring.

DATES: The meeting will be held July 8-13, 1990.

LOCATION OF MEETING: J.W. Marriott Hotel, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Albert D. Tholen, Executive Secretary, National Conference on Weights and Measures, P.O. Box 4025, Gaithersburg, Maryland 20885. Telephone: (301) 975-4009.

Dated: June 26, 1990.

Dr. John W. Lyons,

Director.

[FR Doc. 90-15308 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Public Meeting on Final Management Plan for the Proposed Chesapeake Bay National Estuarine Research Reserve in Maryland; Addition of Jug Bay and Otter Point Creek Components

AGENCY: Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Public meeting notice.

SUMMARY: Notice is hereby given that the Department of Natural Resources, of the State of Maryland, will hold public meetings to present and discuss the proposed final management plan for the proposed Chesapeake Bay National Estuarine Research Reserve in Maryland. This plan includes Jug Bay and Otter Point Creek as additional reserve components to the already designated Monie Bay component. The purpose of the meeting is to receive the views of interested parties on the final management plan.

As part of the procedures leading to the designation of the reserve, the State of Maryland must submit the proposed final management plan to NOAA for its review and approval. Copies of the plan will be made available for review before the meeting by Friday, June 29, 1990 at the Harford County Library, Somerset County Library, Prince Georges County Library—Marlboro Branch and the Anne Arundel County Library—South County Branch.

Meetings will be held in the following locations:

Otter Point Creek: Wednesday, July 11, 1990, 7 p.m., Otter Point Creek Yacht

Club, 600 Otter Point Road, Abington, Maryland

Jug Bay: Thursday, July 12, 1990, 7 p.m., Patuxent River Park, Old Gun Club Building, 16000 Croom Airport Road, Upper Marlboro, Maryland

Monie Bay: Tuesday, July 17, 1990, 7 p.m., Princess Anne Development Center, room 2247, Princess Anne, Maryland.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Graham, Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1825 Connecticut Avenue NW., Washington, DC 20235 (202) 673-5122.

Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management), Estuarine Sanctuaries.

Dated: June 27, 1990.

Dail W. Brown,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 90-15334 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-08-M

Coastal Zone Management; Federal Consistency Appeal by A. Elwood Chestnut From an Objection by the South Carolina Coastal Council

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal and request for comments.

On August 14, 1989, the Secretary of Commerce received a notice of appeal from Mr. A. Elwood Chestnut (Appellant) of Loris, South Carolina, pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act, 16 U.S.C. 1456(c)(3)(A), and the Department of Commerce's implementing regulations, 15 CFR part 930, subpart H (1989). The appeal is taken from an objection by the South Carolina Coastal Council (State) to the Appellant's consistency certification for a United States Army Corps of Engineers (Corps) permit pursuant to section 404 of the Clean Water Act. The permit is necessary for the Appellant's proposal to fill .7 acres and to construct an 8-acre impoundment in isolated wetlands in Horry County, South Carolina. The proposed impoundment is intended for purposes of irrigation and livestock watering.

The CZMA provides that a timely objection by a state to a consistency certification precludes any Federal agency from issuing licenses or permits for the activity unless the Secretary of Commerce finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary

in the interest of national security" (Ground II). See, CZMA section 307(c)(3)(A), 15 U.S.C. 1456(c)(3)(A). To make such a determination, the Secretary must find that the proposed project satisfies the requirements of 15 CFR 930.121 or 930.122.

Mr. Chestnut requests that the Secretary override the South Carolina Coastal Council's consistency objections based on Ground I. To make the determination that the proposed activity is "consistent with the objectives" of the CZMA, the Secretary must find that (1) the proposed activity furthers one or more of the national objectives or purposes contained in sections 302 or 303 of the CZMA; (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest; (3) the proposed activity will not violate the Clean Air Act or the Federal Water Pollution Control Act; and (4) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with South Carolina's coastal management program. 15 CFR 930.121.

Public comments are invited on the findings that the Secretary must make as set forth in the regulations at 15 CFR 930.121. Comments are due within thirty days of the publication of this notice and should be sent to Hugh C. Schratwieser, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, at the address provided below. Copies of comments should also be sent to the South Carolina Coastal Council, Ashley Corporate Center, 4130 Faber Place, suite 300, Charleston, South Carolina 29405.

All nonconfidential documents submitted in this appeal are available for public inspection during business hours at the offices of the South Carolina Coastal Council and at the Office of the Assistant General Counsel for Ocean Services, NOAA.

FOR ADDITIONAL INFORMATION CONTACT: Hugh C. Schratwieser, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235, (202) 673-5200.

(Federal Domestic Assistance Catalogue No. 11.419 Coastal Zone Management Program Assistance.)

Dated: June 26, 1990.
 Thomas A. Campbell,
General Counsel.
 [FR Doc. 90-15279 Filed 6-29-90; 8:45 am]
 BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Availability of DoD 5025.1-I, DoD Directives System Annual Index and Change 1

AGENCY: Office of the Secretary, DoD.
ACTION: Notice.

SUMMARY: This document is to inform the public and Government Agencies of the availability of DoD 5025.1-I, "DoD Directives System Annual Index," January 1990 and Change 1. Both documents are available, at cost, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone 703-487-4850. The NTIS accession number for both documents is PB 90 183526.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Bynum, Directives Division, Correspondence and Directives Directorate, Washington Headquarters Services, Washington, DC 20301-1155, telephone 202-697-4111.

Dated: June 26, 1990.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
 [FR Doc. 90-15296 Filed 6-29-90; 8:45 am]
 BILLING CODE 3810-01-M

Cancellation of DIA Advisory Board Meeting

AGENCY: Defense Intelligence Agency Advisory Board.
ACTION: Notice of Cancellation of Closed Meeting.

SUMMARY: Notice is hereby given that the closed meeting of the DIA Advisory Board's Intelligence Support for Arms Control Monitoring Committee, scheduled for June 27-28, 1990, announced in the Federal Register on Friday, May 11, 1990, Page 19772, has been cancelled.

FOR FURTHER INFORMATION CONTACT: Lieutenant Debra J. Wade, Acting Chief, DIA Advisory Board, Washington, DC 20340-1328 (202/373-4930).

Dated: June 26, 1990.

L. M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
 [FR Doc. 90-15297 Filed 6-29-90; 8:45 am]
 BILLING CODE 3810-01-M

Defense Science Board; Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board will meet in closed session on July 15-27, 1990 at the United States Air Force Academy, Colorado Springs, Colorado. The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At that time the Board will examine the substance, interrelationships, and the US national security implications of three critical areas identified and tasked to the Board by the Secretary of Defense and Under Secretary of Defense for Acquisition. The subject areas are: RDT&E Strategy Integration, Scenarios and Intelligence, Strategic Forces and Supporting C3, Tactical Forces and Supporting C3, and Technology and Technology Transfer Policy. The period of study is anticipated to culminate in the formulation of specific recommendations to be submitted to the Secretary of Defense, via the Under Secretary of Defense for Acquisition, for his consideration in determining resource policies, short- and long-range plans, and in shaping appropriate implementing actions as they may affect the U.S. national defense posture.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: June 26, 1990.

Linda M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
 [FR Doc. 90-15298 Filed 6-29-90; 8:45 am]
 BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Regional Hearings to Solicit Views From Public Officials and Individuals With Expertise and Interest in the Development of a National Energy Strategy.

AGENCY: Office of the Secretary, DOE.
ACTION: Notice of hearing to provide comments on the development of a National Energy Strategy.

SUMMARY: This hearing will be the sixteenth hearing in a series being

conducted throughout the country by the Department of Energy to solicit comments from interested parties on a range of topics. Oral testimony at this hearing will be presented by invitation only. The Department is interested in obtaining specific suggestions on the public health and occupational health issues associated with the production, transportation, and use of energy. Written comments regarding this hearing can be submitted by any interested party at either the hearing site or directly to the Department of Energy, Office of Policy, Planning and Analysis, PE-4, room 7H-062, 1000 Independence Avenue, SW., Washington, DC, 20585. Please reference specific hearing and topic.

This and other National Energy Strategy hearings are designed to solicit information, data, and analysis related to the development of national energy policy objectives, strategies for achieving them, and the role that the Federal Government should play in meeting national energy, economic, and environmental needs.

DATE, LOCATION, AND TOPIC OF THE HEARING IS AS FOLLOWS: July 6, 1990—Bethesda, MD; "Energy and Public Health" (public health effects of energy production from the worker and community point of view; public health effects of energy consumption and energy transportation; risk, risk assessment and liability issues associated with energy production and use.) This hearing will be held between 9 a.m. and 4:30 p.m. at the National Naval Medical Center, 8901 Wisconsin Avenue, Building #2, Auditorium, 3rd Floor, Bethesda, MD, 20814.

All testimony submitted in conjunction with this hearing will be entered into the National Energy Strategy development record and made available to the public.

FOR FURTHER INFORMATION CONTACT: For further information, please write or call William H. Hatch, PE-4, room 7H-062, Office of Policy, Planning and Analysis, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 586-4767. Linda G. Stuntz,

Deputy Under Secretary, Policy, Planning and Analysis.

[FR Doc. 90-15365 Filed 6-28-90; 10:47 am]
 BILLING CODE 6450-01-M

Federal Energy Regulatory Commission**[Project No. 9885-016; Idaho]****Environmental Energy Co.; Availability of Environmental Assessment**

June 25, 1990.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for amendment to license for the Falls River Project located on Falls River in Fremont County, near Ashton, Idaho, and has prepared an Environmental Assessment (EA) for the proposed amendment to license. In the EA, the Commission's staff has analyzed the proposed amendment to license and has concluded that approval of the proposed amendment to license would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15251 Filed 6-29-90; 8:45 am]

BILLING CODE 6717-01-M

Project No. 4444-007; Colorado]**Trans Mountain Hydro Corp.; Availability of Environmental Assessment**

June 25, 1990.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for amendment of license for the proposed Blue Valley Ranch Hydroelectric Project located on the Blue River in Grand County, near Kemmling, Colorado, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 3008, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15252 Filed 6-29-90; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 559-001, et al.]**Hydroelectric Applications; San Diego Gas & Elec., et al.**

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* Transfer of license.

b. *Project No.:* 559-001.

c. *Date Filed:* March 13, 1990.

d. *Applicant:* San Diego Gas and Electric Company (Transferor) and Southern California Edison Company (Transferee).

e. *Name of Project:* Escondido Transmission Line Project.

f. *Location:* In San Diego County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:*

Transferor: Mr. William R. Reed, San Diego Gas and Electric Company, 101 Ash Street, San Diego, CA 92113.

Transferee: Mr. Stephen E. Pickett, Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, CA 91770.

i. *FERC Contact:* Michael Spencer at (202) 357-0846.

j. *Comment Date:* August 2, 1990.

k. *Description of Proposed Action:* San Diego Gas and Electric Company has a transmission line license for Project 559. It is proposed to transfer the license to Southern California Edison Company because they are merging. The proposed transfer will not result in any changes to the project. The Transferor certifies that it has fully complied with the terms and conditions of the license. The Transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though it were the original licensee.

l. *This notice also consists of the following standard paragraphs:* B and C.

2 a. *Type of Application:* Surrender of License.

b. *Project No.:* 1967-005.

c. *Date Filed:* June 28, 1989.

d. *Applicant:* Kimberly-Clark Corporation.

e. *Name of Project:* Whiting-Plover Project.

f. *Location:* On the Wisconsin River in Portage County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Donald E. Warner, Kimberly-Clark Corporation, Neenah Paper Division, P.O. Box 471, Waupun, WI 53983.

i. *FERC Contact:* Robert Bell, (202) 357-0806.

j. *Comment Date:* July 25, 1990.

k. *Description of Project:* The license for this project was issued on October 23, 1974, and expires on June 30, 1990. The project is built and currently operating, and has a capacity of 511 kW. The licensee states the project would not be economically feasible to relicense.

The Federal Energy Regulatory Commission invites any potential applicant to file a notice of intent to file a license application for the Whiting-Plover Hydropower Project within 90 days of the issuance date of this notice. You would then have 18 months from the date of your notice of intent to file a license application that complies with part 1 of the Federal Power Act, and title 18, Code of Federal Regulations, part 4. A potential applicant must also comply with sections 16.8 and 16.10 of the Commission's regulations.

l. *This notice also consists of the following standard paragraphs:* B, C, and D2.

3 a. *Type of Filing:* Amendment of License.

b. *Project No.:* 2899-017.

c. *Date Filed:* April 5, 1990.

d. *Applicant:* Idaho Power Company, Twin Falls Canal Company, and North Side Canal Company, Ltd.

e. *Name of Project:* Milner Hydroelectric Project.

f. *Location:* On lands administered by the Bureau of Land Management, at the existing Milner Dam and Twin Falls Main Canal on the Snake River in Twin Falls, Cassia, Jerome, and Minidoka Counties, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:*

Robert W. Stahman, Idaho Power Company, 1220 West Idaho Street, P.O. Box 70, Boise, Idaho 83707, (208) 383-2676.

Lee S. Sherline, Leighton & Sherline, 1010 Massachusetts Avenue NW., Suite 101, Washington, DC 20001-5402, (202) 898-0117.

i. *FERC Contact:* Thomas Dean, (202) 357-0841.

j. *Comment Date:* July 13, 1990.

k. *Description of Project:* The Milner Dam Project as licensed on December 15, 1988, consists of the following facilities: (1) The Milner Dam, and the north, middle, and south embankments; (2) an 1,100-acre reservoir; (3) a canal control structure; (4) a 6,500-foot-long canal; (5) a bridge on the Twin Falls Main Canal; (6) a forebay; (7) an intake structure at the end of the forebay; (8) a 17-foot-diameter, 385-foot-long penstock leading to; (9) a powerhouse containing a single generating unit with a capacity of 44 megawatts (MW); (10) a 170-foot-long tailrace; (11) a 2,300-foot-long access road; (12) a 1.4-mile-long, 138-kilovolt transmission line; and (13) appurtenant facilities. The estimated average annual energy generation is 144 GWh.

The applicant proposes to modify the Milner Hydroelectric Project by: (1) Expanding the intake structure at the forebay from two gates to three gates; (2) adding a 9.0-foot-diameter, 385-foot-long penstock adjacent to the licensed larger penstock; (3) increasing the capacity of the licensed powerhouse from a single 44 MW generating unit to two generating units with a total capacity of 58 MW; (4) adding an intake structure on the North Canal; (5) adding a 4.75-foot-diameter, 76-foot-long penstock; (6) adding a powerhouse at Milner Dam containing a single generating unit with a capacity of 790 kilowatts; and (7) adding a short 34.5-kV transmission line connecting to the Milner Substation. The average annual energy generation with the increased capacity will be 186 GWh.

l. *Purpose of Project:* Energy produced at the project is intended for utilization in Idaho Power Company's system.

m. *This notice also consists of the following standard paragraphs: B and C.*

4 a. *Type of Filing:* Surrender of License.

b. *Project No.:* 7281-010.

c. *Date Filed:* April 27, 1990.

d. *Applicant:* Madera Irrigation District.

e. *Name of Project:* Lateral 6.2 Project.

f. *Location:* On the Bureau of Reclamation's Lateral 6.2 Canal, which receives water from the San Joaquin River, in Madera County, California.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Robert L. Stanfield, General Manager, Madera Irrigation District, 12152 Road 28 1/2, Madera, California 93637-9106, (209) 673-3514.

i. *Commission Contact:* Nanzo T. Coley (202) 357-0840.

j. *Comment Date:* July 30, 1990.

k. *Description of Proposed Action:* The licensee has requested that its

license be surrendered because the project's flows were diminished below operational levels and the plants were shut down. The operation of the plants began on February 21, 1985, and stopped on February 21, 1986. During the period from August 1985, to February 1986, the value of electricity per kWh dropped from \$0.084 to \$0.054, and is currently about \$0.030. The project's facilities consist of four powerhouses, each containing one generating unit rated at 150 kW, a 4.5-mile-long, 12-kV transmission line, and appurtenant facilities.

l. *This notice also consists of the following standard paragraphs: B and C.*

5 a. *Type of Application:* Constructed Major License.

b. *Project No.:* 10674-002.

c. *Date filed:* March 27, 1990.

d. *Applicant:* Midtec Paper Corporation.

e. *Name of Project:* Midtec Project.

f. *Location:* On the Fox River in Outagamie County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. C. E. Wise, Midtec Paper Corporation North Main Street, Kimberly, WI 10022, (414) 788-8511.

i. *FERC Contact:* Robert Bell (202) 357-0806.

j. *Comment Date:* August 18, 1990.

k. *Description of Project:* The proposed constructed project would utilize the U.S. Army Corps of Engineers Cedars Lock and Dam and impoundment and would consist of: (1) An existing intake structure; (2) 3 existing 12-foot-8-inch diameter penstocks, 66 inches long; (3) an existing powerhouse containing 3 generating units with a total installed capacity of 2700 kW; and (4) appurtenant facilities. The project would have an average annual generation of 8800 MWh. The project was found jurisdictional under UL 88-37.

l. *This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.*

6 a. *Type of Application:* Minor License (Constructed Project).

b. *Project No.:* 10887-000.

c. *Date filed:* February 8, 1990.

d. *Applicant:* Climax Manufacturing Company.

e. *Name of Project:* Carthage Paper Maker Mills Project.

f. *Location:* On the Black River in Jefferson County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Lee Hirschey, Climax Manufacturing

Company, 1 Climax Street, Castorland, NY 13620, (315) 493-3390.

i. *FERC Contact:* Robert Bell (202) 357-0806.

j. *Comment Date:* August 6, 1990.

k. *Description of Project:* The existing constructed project would consist of: (1) An existing 824-foot-long composite dam varying in height from 2 feet to 8 feet; (2) an impoundment having a surface area of 690 acres with a storage capacity of 2,400 acre-feet and a normal water surface elevation of 726.4 feet m.s.l.; (3) an existing structure; (4) a 500-foot-long intake channel; (5) an existing powerhouse containing one generating unit having a rated capacity of 800-kW; (6) one existing tailrace; (7) the existing 23-kV transmission line; and (8) appurtenant facilities. The estimated annual generation is 4,900,000 kWh and is used by the applicant.

l. *This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.*

7 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10932-000.

c. *Date Filed:* May 7, 1990.

d. *Applicant:* Galbraith Hydro, Inc.

e. *Name of Project:* Galbraith/WRIA 010373.

f. *Location:* On Galbraith and WRIA 010373 Creeks, in Whatcom County, Washington. T38N, R6E in sections 27, 28, 33, and 34.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Bill E. Covin, Hydro West Group, Inc., 1422-130th Avenue NE, Bellevue, WA 98005, (206) 455-0234.

i. *Commission Contact:* Mr. William Roy-Harrison, (202) 357-0845.

j. *Comment Date:* August 20, 1990.

k. *Description of Project:* The proposed project would consist of: (1) a 5-foot-high diversion structure at elevation 2,650 feet msl on Galbraith and WRIA 010373 Creeks; (2) a 24-inch-diameter, 4,400-foot-long penstock on Galbraith Creek and a 15-inch-diameter, 5,600-foot-long penstock on WRIA 010373 Creek; (3) a 30-inch-diameter, 4,500-foot-long common penstock; (4) a powerhouse containing a generating unit with a total capacity of 3.4 MW; (5) a 34.5-kV, 2.5-mile-long transmission line; and (6) appurtenant facilities. The applicant estimates an average annual energy generation of 14 GWh. The approximate cost of the studies under the permit would be \$300,000.

l. *This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.*

8 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P-10935-000.

c. *Date Filed:* May 11, 1990.

d. *Applicant:* D. S. Pyle and Hoke Thomas.

e. *Name of Project:* Lower Mulberry Creek Hydroelectric Project.

f. *Location:* On Mulberry Creek near Hamilton, Harris County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. D. S. Pyle, P.O. Box 452, Tucker, Georgia, 30085, (404) 493-6101.

i. *FERC Contact:* Michael Dees (202) 357-0807.

j. *Comment Date:* August 6, 1990.

k. *Description of Project:* The proposed project would consist of: (1) Restoring an existing dam 225 feet long and two feet high; (2) A proposed penstock 72 to 84 inches in diameter and 1,400 to 1,600 feet long; (3) a new powerhouse housing two 734-kW hydropower units; (5) a tailrace 15 feet wide and 20 feet long; (6) a 12.5-kV transmission line 1.5 miles long; (7) and appurtenant facilities. The applicant estimates that the annual energy generation would be 9.6 GWH and that the cost of the studies to be performed under the permit would be \$25,000. The dam site is owned by Mr. Gerald B. Saunders and the Concharity Council of Girl Scouts, Inc.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

9 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 10937-000.

c. *Date Filed:* April 23, 1990.

d. *Applicant:* Town of Wilmington, New York.

e. *Name of Project:* Ausable River Hydro Project.

f. *Location:* On the Ausable River in Essex County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825(r).

h. *Applicant Contact:* Joanne E. Zaumetzer, Town Hall, Wilmington, NY 12997, (518) 946-7174.

i. *FERC Contact:* Ed Lee (202) 357-0809.

j. *Comment Date:* August 6, 1990.

k. *Description of Project:* The proposed project would consist of: (1) The existing 230-foot-long and 16-foot-high concrete dam; (2) existing 3.2-acre reservoir; (3) a proposed intake structure; (4) a new concrete powerhouse housing two generating units for a total installed capacity of 360 kW; (5) a proposed tailrace; (6) a new 17.4-kV or equivalent transmission line; and (7) appurtenant facilities. The

Applicant estimates that the average annual generation would be \$25,000. The site is owned by the applicant. The Applicant proposes that all power generated will be sold to New York State Electric and Gas Company.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

10 a. *Type of Application:* Declaration of Intention.

b. *Project No.:* EL90-27-000.

c. *Date Filed:* May 4, 1990.

d. *Applicant:* Cook Industries Inc.

e. *Name of Project:* High Falls Hydroelectric Plant.

f. *Location:* Deep River, Randolph County, High Falls, North Carolina.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* George S. Cook, 4701 High Point Road, Greensboro, N.C. 27407, (919) 294-0053.

i. *FERC Contact:* Etta Foster, (202) 357-0679.

j. *Comment Date:* July 23, 1990.

k. *Description of Project:* The proposed High Falls Project, a run-of-river project, would consist of: (1) An existing 9-foot-high, 700-foot-wide dam; (2) a 300-foot-long spillway; (3) a 500-foot-long, 150-foot-wide mill race; (4) a power house containing three generating units with a total generating capacity of 650 kilowatts; (5) a 250-foot-long transmission line and (6) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Purpose of Project:* Applicant intends to sell energy to the Carolina Power and Light Company.

m. *This notice also consists of the following standard paragraphs:* B, C, and D2.

11 a. *Type of Application:* Declaration of Intention.

b. *Project No.:* EL90-30-000.

c. *Date Filed:* May 16, 1990.

d. *Applicant:* Charles C. Wood, Jr.

e. *Name of Project:* Old Washington Mill.

f. *Location:* Town of Mayodan, Rockingham County, Mayodan, NC.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Charles C. Wood, Jr., 4010 La Grange Drive, Greensboro, NC 27406, (919) 275-7613.

i. *FERC Contact:* Hank Ecton, (202) 357-0678.

j. *Comment Date:* July 23, 1990.

k. *Description of Project:* The proposed Old Washington Mill Project, a run-of-river project, would consist of: (1) A pool area of 10 acres, with a reservoir storage capacity of about 40 acre feet; (2) an existing power canal approximately 25 feet wide and 2000 feet long; (3) an existing reinforced concrete canal headworks, with a 32-foot-long masonry wall adjoining the right bank; (4) an existing 250-foot-long, 15-foot-high ogee-shaped spillway; (5) a proposed 9-foot-diameter penstock; (6) a proposed powerhouse to contain two Francis turbines, with the initial capacity of the plant expected to be 200 kilowatts (kW), and a projected capacity to be 600 kW; and (7) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Purpose of Project:* Applicant intends to sell energy produced to the Duke Power Company.

m. *This notice also consists of the following standard paragraphs:* B, C, and D2.

12 a. *Type of Application:* Declaratory Order.

b. *Docket No:* EL90-33.

c. *Date Filed:* June 1, 1990.

d. *Applicant:* McRay Energy, Inc.

e. *Name of Project:* Lake Tahoma.

f. *Location:* McDowell County, approximately five miles northwest of

Marion, North Carolina, on Buck Creek, a tributary of the Catawba River.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* W. A. McNeill, President, McRay Energy, Inc., P.O. Box 1240, Bessemer City, NC 28016, (919) 982-4020.

i. *FERC Contact:* Diane M. Scire, (202) 375-0682.

j. *Comment Date:* August 9, 1990.

k. *Description of Project:* The Lake Tahoma Hydroelectric Project, owned and operated by McRay Energy, Inc., consists of: (1) A reservoir with a surface area at spillway crest of 163 acres; (2) a 62.6-foot-high, 398-foot-long dam with a 123.6-foot-long overflow section; (3) a 4-foot-diameter, 117-foot-long steel penstock; (4) a powerhouse containing a 240-kilowatt vertical Francis turbine and generator; and (5) appurtenant facilities.

When a Declaratory Order is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Purpose of Project:* The project provides power for homeowners of Lake Tahoma.

m. *This notice also consists of the following standard paragraphs: B, C, and D2.*

Standard Paragraphs

A3. *Development Application*—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A5. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

A10. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments

filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Dean Shumway, Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027 (180 1st), at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—States, agencies established pursuant to federal law that have the authority to prepare a comprehensive plan for improving, developing, and conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural or other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. section 8251(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be sent to the Applicant's representatives.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: June 23, 1990, Washington, DC.
Lois D. Cashell,
Secretary.
[FR Doc. 90-15253 Filed 6-29-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP90-1590-000, et al.]

Texas Eastern Transmission Corp., et al.; Natural Gas Certificate Filings

June 25, 1990.

Take notice that the following filings have been made with the Commission:

1. Texas Eastern Transmission Corporation

[Docket Nos. CP90-1590-000]

Take notice that on June 20, 1990, Texas Eastern Transmission

Corporation (Texas Eastern), Post Office Box 2521, Houston, Texas 77252-2521, filed in Docket No. CP90-1590-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add a new delivery point to eight existing service agreements with Philadelphia Electric Company (PECO) under Texas Eastern's blanket certificate issued in Docket No. CP82-535-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Eastern proposes to add a new delivery point, M&R Station No. 2745, located in Montgomery County, Pennsylvania, to the individual service agreements covering service to PECO under Rate Schedules CD-1, CD-2, FT-1, FTS-2, WS, SS, SS-2, and SS-3 of Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1. Texas Eastern states that no new facilities are to be constructed.

Texas Eastern states that the Maximum Daily Delivery Obligations (MDDO) for the new delivery point would be as follows: 23,152 dekatherms (dth) for Rate Schedule CD-1; 30,000 dth for Rate Schedule CD-2; 30,000 dth for Rate Schedule FT-1; 13,486 dth for Rate Schedule FTS-2; 30,000 dth for Rate Schedule WS; 10,381 dth for Rate Schedule SS; 24,663 dth (less applicable shrinkage) for Rate Schedule SS-2; and 10,000 dth (less applicable shrinkage) for Rate Schedule SS-3. Texas Eastern states that there will be no change in MDDO at the other existing delivery points in the superseding agreements, nor any increase in the total certificated contract quantities. The natural gas quantities delivered to PECO will be utilized as general system supply by PECO.

Texas Eastern further states that the addition of M&R Station No. 2745 will

have no effect on Texas Eastern's peak day or annual deliveries. Texas Eastern submits that its proposal will be accomplished without detriment or disadvantage to Texas Eastern's other customers and that Texas Eastern's existing tariff does not prohibit the addition of M&R Station No. 2745.

Comment date: August 10, 1990, in accordance with Standard Paragraph G at the end of this notice.

United Gas Pipe Line Company

[Docket No. CP90-1565-000, Docket No. CP90-1566-000]

Take notice that on June 18, 1990, United Gas Pipe Line Company (United) P.O. Box 1478, Houston, Texas 77251-1478 filed two requests with the Commission in the above referenced dockets, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA), for authorization to transport natural gas on behalf of various shippers, under the blanket certificate issued in Docket No. CP88-6-000 pursuant to section 7 of the NGA, all as more fully set forth in the requests which are open to public inspection.¹

United proposes an interruptible natural gas transportation service for each of such shippers. United has also provided other information applicable to each transaction, including the shipper's identity; the peak day, average day, and annual volumes; service initiation dates; and the related docket numbers of the 120-day transactions under § 284.223(a) of the Regulations, as summarized in the attached appendix.

Comment date: August 10, 1990, in accordance with Standard Paragraph G at the end of this notice.

APPENDIX

Docket No.	Shipper	Volumes- MMBtu (peak, average, annual)	ST docket, start up date	Receipt points (state)	Delivery points (state)
CP90-1565-000	Exxon Corp.	103,000 103,000 37,595,000	ST90-3258 5-14-90	LA, MS, ALTX.	LA, TX, MS, AL
CP90-1566-000	Pennzoil Gas Marketing Company	3,605 3,605 1,315,825	ST90-3157 5-1-90	LA	AL

¹ These prior notice requests are not consolidated.

3. Texas Gas Transmission Corporation

[Docket No. CP90-1601-000, Docket No. CP90-1602-000]

Take notice that Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro, Kentucky 42301, (Applicant), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket

certificate issued in Docket No. CP88-686-000, pursuant to section 7 of the Natural Gas, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.²

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions

under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: August 10, 1990, in accordance with Standard Paragraph C at the end of this notice.

APPENDIX

Docket No. (date filed)	Shipper name	Peak day, average day, annual MMBtu	Receipt ¹ points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP90-1601-000 (6-22-90)	Centran Corporation.....	30,000 23,000 9,125,000	OLA	OLA	1-18-90..... IT..... Interruptible.....	ST90-3176-000, 5-12-90
CP90-1602-000 (6-22-90)	Amoco Production Company.....	400,000 100,000 42,600,000	Various	LA	11-28-89..... IT..... Interruptible.....	ST90-3215-000, 5-17-90

¹ Offshore Louisiana is shown as OLA.

3. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15254 Filed 6-29-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER90-315-000]

Duke Power Co.; Initiation of Proceeding and Refund Effective Date

June 26, 1990.

Take notice that on June 5, 1990, the Commission issued an order in this proceeding initiating a proceeding under section 206 of the Federal Power Act, as

amended by the Regulatory Fairness Act of 1988.

Refund effective date: August 31, 1990.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15255 Filed 6-29-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59284A; FRL 3773-1]

Certain Chemical; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME-90-12. The test marketing conditions are described below.

EFFECTIVE DATES: June 20, 1990.

FOR FURTHER INFORMATION CONTACT: Alan Cole, New Chemicals Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room

E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3861.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-90-12. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

² These prior notice requests are not consolidated.

The following additional restrictions apply to TME-90-12. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME-90-12

Date of Receipt: May 14, 1990.

Notice of Receipt: June 20, 1990 (55 FR 25171).

Applicant: Westvaco Corporation.

Chemical: (G) Lignin, kraft, reaction product with tall oil fatty acids, C₂₁ dicarboxylic acid and ethylenediamines.

Use: (G) Emulsifier for asphalt emulsions. Production Volume: (Confidential).

Number of Customers: (Confidential).

Test Marketing Period: (Confidential).

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present an unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

Dated: June 20, 1990.

John W. Melone,

Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 90-15328 Filed 6-29-90; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-44555; FRL-3773-4]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on commercial hexane (CAS No. 96-37-7 and 110-54-3)

and 1,2-dichloropropane (DCP) (CAS No. 78-87-5), submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT:

Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the Federal Register reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received.

I. Test Data Submissions

Test data for commercial hexane was submitted by American Petroleum Institute on behalf of the test sponsors and pursuant to a test rule at 40 CFR 799.2155. It was received by EPA on June 18, 1990. The submission describes a Subchronic In Vivo Cytogenetics Assay in Rats Using Noseonly Inhalation Exposure. Cytogenetic testing is required by this test rule. This chemical is used as a solvent to extract seed oils.

Test data for DCP was submitted by The Dow Chemical Company pursuant to a test rule at 40 CFR 799.1550. It was received by EPA on April 18, 1990. The submission describes a Two-Generation Reproduction Study in Sprague-Dawley Rats. Reproductive testing is required by this test rule. This chemical is used as a solvent for: the manufacture of ion exchange resins, as a feedstock for the manufacture of perchlorethylene, in metal degreasing agents, as a component of furniture finish removers and paint removers, and as a lead scavenger for fuel anti-knock fluids.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPTS-44555). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: June 25, 1990.

James B. Willis,

Acting Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 90-15329 Filed 6-29-90; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 224-224-200380

Title: South Carolina State Ports Authority/ABC Containerline, N.V. Terminal Agreement

Parties:

South Carolina State Ports Authority (Port)

ABC Containerline, N.V. (ABC).

Synopsis: The Agreement provides for the Port to grant ABC the exclusive right to use 110 container parking slots, located at the Port of Charleston for use in its shipping terminal operations. ABC will pay the Port a container license fee for each loaded and empty container in accordance with the annual rate schedule specified in the agreement. The term of Agreement is three years.

Agreement No.: 224-200165-002

Title: Maryland Port Administration/Ceres Corporation Terminal Agreement

Parties:

Maryland Port Administration
Ceres Corporation.

Synopsis: The Agreement provides for 12.62 acres to be added to Lot 1500, Dundalk Marine Terminal at Baltimore, MD.

By Order of the Federal Maritime Commission.

Dated: June 26, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-15250 Filed 6-29-90; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 879

Name: Penson Florida Company

Address: 2315 NW. 107th Ave. B-19, Miami, FL 33172

Date Revoked: April 24, 1990

Reason: Surrendered license voluntarily

License Number: 854

Name: Seaport Shipping Company dba Seaport International

Address: 4610 SE. Belmont St., Portland, OR 97215

Date Revoked: May 25, 1990

Reason: Failed to furnish a valid bond

License Number: 3278

Name: Roger Wang dba Seven Seas Freight Forwarding Services

Address: 16400 Lakewood Blvd., Bellflower, CA 90706

Date Revoked: May 29, 1990

Reason: Surrendered license voluntarily

License Number: 2949

Name: Rainbow Forwarding Corp.

Address: 8410 NW. 53rd Terr., Suite 127, Miami, FL 33166

Date Revoked: June 4, 1990

Reason: Failed to furnish a valid bond

License Number: 1955R

Name: Martin & Merrell, Inc. dba Marmel International

Address: P.O. Box 22520, Ft. Lauderdale, FL 33335

Date Revoked: June 7, 1990

Reason: Failed to furnish a valid bond

Bryant L. VanBrakle,

Acting Director, Bureau of Domestic Regulation.

[FR Doc. 90-15240 Filed 6-29-90; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90F-0203]

Cambridge Products Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Cambridge Products Ltd. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of gentian violet to prevent the outgrowth of molds and mycotoxins in poultry feed.

DATES: Comments by August 31, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (FHA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Woodrow M. Knight, Center for Veterinary Medicine (HFV-226), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3390.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2213), has been filed by Cambridge Products Ltd., P.O. Box 1622 S.S.S., Springfield, MO 65805, proposing that the food additive regulations in 21 CFR part 573 be amended to provide for the safe use of gentian violet at a level of 8 parts per million in poultry feed for the prevention of the outgrowth of molds and mycotoxins.

The potential environmental impact of this action is being reviewed. The environmental assessment prepared by the petitioner may be seen at the Dockets Management Branch (address above). Comments from the public are invited. Those comments received by August 31, 1990 will be considered. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the *Federal Register* in accordance with 21 CFR 25.40(c). If the agency finds that an environmental impact statement is necessary, the final regulation, the final environmental impact statement, and the record of decision will be made available as prescribed in 40 CFR 1506.10.

Dated: June 26, 1990.

Richard H. Teske,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 90-15276 Filed 6-29-90; 8:45 am]

BILLING CODE 4150-01-M

Advisory Committee; meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Gastroenterology-Urology Devices Panel

Date, time, and place. July 18 and 19, 1990, 9 a.m., First Floor Conference Rm., Piccard Bldg., 1390 Piccard Dr., Rockville, MD.

Type of meeting and contact person. Open public hearing, July 18, 1990, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 4 p.m.; closed presentation of data, 4 p.m. to 4:30 p.m.; open public hearing, July 19, 1990, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 4 p.m.; closed presentation of data, 4 p.m. to 4:30 p.m.; Ruth W. Hubbard, Center for Devices and Radiological Health (HFZ-420), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1220.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 1, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications for extracorporeal shockwave lithotripters.

Closed presentation of data. The committee may discuss trade secret and/or confidential commercial information regarding lithotripters. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this *Federal Register* notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session

may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-82, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FCAC criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency;

consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: June 19, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90-15277 Filed 6-29-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-150-00-4830-11-ADVB-2410]

Call for District Advisory Council Nominations

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for nominations for District Advisory Councils.

SUMMARY: The purpose of this notice is to solicit public nominations to fill those positions for which terms expire this year on each of the Bureau of Land Management's 52 district advisory councils.

Each council comprises 10 members, except the Northern Alaska Advisory Council and the California Desert District Advisory Council, which comprise 11 and 15 members, respectively. Under the established staggered-term arrangement, the terms of approximately one-third of the

members on each council will expire on December 31, 1990, and must be filled. Current council members may be reappointed or new members may be appointed. However, the eligibility of current council members for reappointment may be affected by the governing regulations (43 CFR 1784.3(b)). Appointments made by the Secretary pursuant to this call will assure continued representation of specific categories of interest on each council. The new terms will expire December 31, 1993.

To assure council membership that is fairly balanced in terms of points of view represented and functions performed, nominees must be qualified to provide advice in certain areas that are identified with each council position to be filled. The specific number of positions to be filled on each council and their categories will be announced through local news releases in the appropriate States and Districts. The categories will include the following:

- Elected General Purpose Government
- Environmental Protection
- Recreation
- Renewable Resources (livestock, forestry, agriculture)
- Non-Renewable Resources (mining, oil and gas, extractive industries)
- Transportation/Rights-of-Way (or occupancy issues)
- Wildlife
- Public-at-Large.

The purpose of the councils is to provide informed advice to the respective District Managers on the management of the public lands. Members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

Each council normally will meet at least twice annually. Additional meetings may be called by the District Manager or his designee in connection with special needs for advice.

Persons wishing to nominate individuals or to be nominated to serve on an advisory council should contact the appropriate District Manager of the Bureau of Land Management at the corresponding District Office address below to ascertain which categories of interest are to be represented. They should then provide the District Manager with the names, addresses, occupations, and other biographic data of qualified nominees.

DATES: All nominations should be received by July 30, 1990.

ADDRESSES: The Districts and their mailing addresses are as follows:

Alaska

Arctic, Kobuk, and Steese-White Mountain Districts (jointly served by the Northern Alaska Advisory Council): c/o Public Affairs Staff, Fairbanks Support Center, 1541 Gaffney Road, Fairbanks, AK 99703
Anchorage and Glennallen Districts (jointly served by the Southern Alaska Advisory Council): c/o Public Affairs Staff, Alaska State Office, Box 13, Anchorage, AK 99513

Arizona

Phoenix District: 2015 West Deer Valley Road, Phoenix, AZ 85027
Safford District: 425 East 4th Street, Safford, AZ 85546
Yuma District: 3150 Winsor Avenue, Yuma, AZ 85364

California

Bakersfield District: 800 Truxtun Avenue, Bakersfield, CA 93301-4782
California Desert District: 1695 Spruce Street, Riverside, CA 92507-2497
Susanville District: 705 Hall Street, Susanville, CA 96130-3730
Ukiah District: 555 Leslie Street, Ukiah, CA 95482-5599

Colorado

Canon City District: P.O. Box 311, Canon City, CO 81212
Craig District: 455 Emerson Street, Craig, CO 81625
Grand Junction District: 764 Horizon Drive, Grand Junction, CO 81506
Montrose District: 2465 S. Townsend Avenue, Montrose, CO 81401

Idaho

Boise District: 3948 Development Avenue, Boise, ID 83705
Burley District: Route 3, Box 1, Burley, ID 83318
Coeur d'Alene District: 1808 N. Third Street, Coeur d'Alene, ID 83814
Idaho Falls District: 940 Lincoln Road, Idaho Falls, ID 83401
Salmon District: P.O. Box 430, Salmon, ID 83467
Shoshone District: P.O. Box 2B, Shoshone, ID 83352

Montana

Butte District: P.O. Box 3388, Butte, MT 59702
Lewistown District: 80 Airport Road, Lewistown, MT 59457
Miles City District: P.O. Box 940, Miles City, MT 59301

North Dakota

Dickinson District: 2933 Third Avenue West, Dickinson, ND 58601

New Mexico

Albuquerque District: 435 Montano Road, N.E., Albuquerque, NM 87107
Las Cruces District: 1800 Marquess Street, Las Cruces, NM 88005
Roswell District: P.O. Box 1397, Roswell, NM 88201-1397

Nevada

Battle Mountain District: P.O. Box 1420, Battle Mountain, NV 89820
Carson City District: 1535 Hot Springs Road, Carson City, NV 89706-0638
Elko District: P.O. Box 831, Elko, NV 89801
Ely District: Star Route 5, Box 1, Ely, NV 89301
Las Vegas District: P.O. Box 26569, Las Vegas, NV 89126
Winnemucca District: 705 East 4th Street, Winnemucca, NV 89445

Oregon

Burns District: HC 74-12533 Highway 20 West, Hines, OR 99738
Coos Bay District: 333 S. Fourth Street, Coos Bay, OR 97420
Eugene District: P.O. Box 10226, Eugene, OR 97401
Lakeview District: P.O. Box 151, Lakeview, OR 97630
Medford District: 3040 Biddle Road, Medford, OR 97504
Prineville District: P.O. Box 550, Prineville, OR 99754
Roseburg District: 777 N.W. Garden Valley Blvd., Roseburg, OR 97470
Salem District: 1717 Fabry Road, S.E., Salem, OR 97306
Vale District: P.O. Box 700, Vale, OR 97918

Utah

Arizona Strip District: 390 North, 3050 East, St. George, UT 84770
Cedar City District: P.O. Box 724, Cedar City, UT 84720
Moab District: P.O. Box 970, Moab, UT 84532
Richfield District: 150 East 900 North, Richfield, UT 84701
Salt Lake District: 2370 South 2300 West, Salt Lake City, UT 84119
Vernal District: 170 South 500 East, Vernal, UT 84078

Washington

Spokane District: East 4217 Main, Spokane, WA 99202

Wyoming

Casper District: 1701 East "E" Street, Casper, WY 82601
Rawlins District: P.O. Box 670, Rawlins, WY 82301
Rock Springs District: P.O. Box 1869, Rock Springs, WY 82901-1869

Worland District: P.O. Box 119,
Worland, WY 82401

FOR FURTHER INFORMATION CONTACT:
The appropriate District Managers.

Date signed: June 20, 1990.

Hillary A. Oden,

Acting Deputy Director.

[FR Doc. 90-15161 Filed 6-29-90; 8:45 am]

BILLING CODE 4310-84-M

[ES-020-00-5101-13-YMKB]

**Application for a Right-of-Way Grant
for a 24 inch Natural Gas Pipeline**

AGENCY: Bureau of Land Management
(BLM), Interior.

ACTION: Notice of Application for Right-
of-Way Grant.

SUMMARY: As the lead agency for the National Environmental Policy Act (NEPA) compliance, the Federal Energy Regulatory Commission (FERC), Department of Energy, in cooperation with the Bureau of Land Management (BLM), Department of the Interior, Forest Service (FS), Department of Agriculture, and Fish and Wildlife Service (FWS); is preparing an environmental assessment (EA) of a proposed 24 inch diameter natural gas pipeline and related facilities in northern Arkansas and Oklahoma. The EA, when completed, will be the basis for BLM's right-of-way grant issuance decision relative to the public land.

DATES: Public comments and participation are integral parts of the Bureau's planning process. Comments on the proposed right-of-way grant will be accepted until July 23, 1990.

ADDRESSES: Comments on the proposed right-of-way grant should be sent to Bert Rodgers, District Manager, Bureau of Land Management, 411 Briarwood Drive, Suite 404, Jackson, MS. 39206.

FOR FURTHER INFORMATION CONTACT: Ed Roberson ADM, Lands and Renewable Resources, Jackson District Office, 411 Briarwood Drive, Suite 404, Jackson, Mississippi 39206, (601) 977-5400.

SUPPLEMENTARY INFORMATION: On May 21, 1990 an application was filed with the Bureau of Land Management, Jackson District Office for a right-of-way grant through Federally-owned lands where the surface lands are managed by the U.S. Forest Service and the U.S. Army Corps of Engineers. When a proposed oil or natural gas pipeline crosses Federally-owned lands where the surface estate is administered by two or more Federal agencies, BLM is responsible for issuance of the right-of-way grant across the Federal lands pursuant to 43 CFR 2882.2-2.

The application was filed by Delta Pipeline Company, 9400 N. Central Expy, LB 154, Dallas Texas 75231. The company proposes to construct a 24-inch diameter natural gas pipeline a distance of approximately 190 miles from the vicinity Wilburton, Latimer County, Oklahoma, to an interconnection with the facilities of Natrual Gas Pipeline Company of America and Texas Eastern Transmission Company near Donaldson, Hot Springs County, Arkansas. As proposed the pipeline will transport up to 200,000,000 cubic feet of natural gas per day. No compression, storage, or processing facilities are proposed. As proposed, the pipeline would require a 75 foot wide construction right-of-way and a 50 foot wide permanent right-of-way. The proposed right-of-way would cross lands administered by the Corps of Engineers for approximately 2.1 miles and lands administered by the Forest Service for approximately 29.7 miles. The proposed pipeline would be located adjacent to an existing pipeline right-of-way for the entire crossing of the Federally-owned lands. These lands are located in, Yell, Perry, and Garland counties, Arkansas.

Delta Pipeline Company has filed separate applications with the Federal Energy Regulatory Commission, U.S. Forest Service, U.S. Army Corps of Engineers, applicable state, county, and local authorities.

FERC will continue as lead agency for NEPA compliance on the proposed pipeline, including the proposed right-of-way. As the lead agency, FERC is preparing an EA of the proposed pipeline.

BLM, FS, and FWS are participating in the preparation of EA as cooperating agencies.

The EA, when completed will be the basis for BLM's decisions. Those decisions include: (1) Whether a Finding of No Significant Impacts is appropriate for the right-of-way grant, (2) If so, whether the right-of-way grant should be issued, and (3) If so, under what conditions and terms will the grant be issued.

Bert Rodgers,

District Manager.

[FR Doc. 90-15241 Filed 6-29-90; 8:45 am]

BILLING CODE 4310-CJ-M

[CA-060-00-4410-04-ADVB]

**Meeting of the California Desert
District Advisory Council**

SUMMARY: Notice is hereby given, in accordance with Public Laws 92-463 and 94-579, that the California Desert District Advisory Council to the Bureau

of Land Management, U.S. Department of the Interior, will meet in formal session Thursday, July 26, 1990, from 1:00 p.m. to 5:30 p.m.; Friday, July 27, 1990, from 1:00 p.m. to 8: p.m.; and Saturday, July 28, 1990, from 1:00 p.m. to 5:00 p.m., in the Barstow Station Inn at 1511 East Main Street in Barstow, California.

Agenda items for the meetings will include:

- A variety of desert tortoise related issues, including a briefing on current research efforts, Council comments and recommendations on BLM's draft Raven Management Plan and associated draft Environmental Impact Statement, a briefing on the Western Mojave Desert Tortoise Habitat Management Plan, an update of the desert tortoise compensation formula, and a briefing on a new task force studying livestock grazing in desert tortoise habitat with Council review of its study plan. During this portion of the meeting, the California Desert District Advisory Council functions as California's Desert Tortoise Coordinating Committee.
- A briefing on a BLM/Advisory Council tour with Pluess Stauffer of a proposed mine site in the New York Mountains, within the East Mojave National Scenic Area;
- A report by a Desert District Council member on a Ukiah District Advisory Council meeting she attended;
- A briefing on California Desert District's Showcase Areas;
- An update on BLM's Barstow Resource Area Off-Highway Vehicle Area planning efforts;
- A discussion of potential sites within the California Desert to be opened to assault rifle target shooting;
- A discussion and Council recommendations on proposed Back Country Byways, including the priority for their nomination;
- An update on the schedule for the 1989-90 California Desert Conservation Area Plan Amendment Environmental Impact Statement;
- A progress update on the South Coast Resource Management Plan;
- A briefing on and discussion of the Old Woman Mountains (Lazy Daisy Allotment) Coordinated Resource Management Plan;
- A briefing on the Technical Review Team recommendations regarding the 1990 Barstow-to-Vegas Hare and Hound Environmental Assessment; and
- Council consideration of the California Desert District's proposed five-year budget plan.

All formal Council meetings are open to the public. Time is allocated for public comments, and time also may be made available by the Council Chairman during the presentation of various agenda items.

On Friday, July 27, from 7:30 a.m. to 1:00 p.m., Council members will participate in a field trip to Afton Canyon to view planned management actions, review the status of the management plan and appeal to the Internal Board of Land Appeals, and discuss the proposed environmental assessment to be written regarding tamarisk removal within the Canyon. On the return trip to Barstow, Council members will be briefed at the Yermo Community Services Building (110 McCormick in the Norman Smith Park) on the current status of the U.S. Army's proposed Fort Irwin expansion Draft Environmental Impact Statement.

On Saturday, July 27, from 7:30 a.m. to 11:30 a.m., the Council will visit the Luz, International solar energy facility near Kramer Junction. They will also visit a site near Cuddeback Dry Lake that has been heavily impacted by off-highway vehicles, and will hear a short briefing on the BLM/Air Force Land Tenure Adjustment Program.

The public is welcome to participate in the field tours, but should plan on providing their own transportation and drinks, as well as lunch on Friday. Anyone interested in participating should contact BLM at (714) 276-6383 for more information. The tours will assemble at the Barstow Station Inn at 7:15 a.m. on both mornings.

Written comments may be filed in advance of the meeting with the California Desert District Advisory Council Chairman, Mr. David Fisher, c/o Bureau of Land Management, Public Affairs Office, 1695 Spruce Street, Riverside, California 92507. Written comments are also accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, Public Affairs Office, 1695 Spruce Street, Riverside, California 92507; (714) 276-6383.

Dated: June 25, 1990.

Gerald E. Hillier,
District Manager.

[FR Doc. 90-15290 Filed 6-29-90; 8:45 am]

BILLING CODE 4310-40-M

National Park Service

Haleakala National Park General Management Plan; Notice of Intent To Prepare an Environmental Impact Statement

SUMMARY: In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91-190, the National Park Service is preparing an environmental impact statement to assess the impacts of proposals and alternatives to be set forth in the General Management Plan for Haleakala National Park, Island of Maui, Hawaii.

A Draft General Management Plan/Environmental Impact Statement (GMP/EIS) for the park was previously circulated. The draft was not finalized and the current action is to update and present the revised GMP/EIS for public review and comment. The updated GMP/EIS will present and analyze a range of alternatives dealing with land acquisition/proposed additions, resource management concepts, visitor use concepts, and other issues.

Persons wishing to provide scoping comments on the plan and environmental statement or needing additional information should address such comments or inquiries to the Superintendent, Haleakala National Park, P.O. Box 369, Makawao, Maui, HI 96768. Comments should be received no later than 60 days from the publication date of this notice.

The responsible official is Stanley Albright, Regional Director, Western Region, National Park Service. The draft plan and environmental statement are expected to be available for public review in Spring 1991. The final plan and environmental statement and Record of Decision are expected to be completed by the end of 1991.

Dated: June 22, 1990.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 90-15338 Filed 6-29-90; 8:45 am]

BILLING CODE 4310-70-M

Environmental Impact Statement; Mining in Alaska National Park System Units

ACTION: Notice of Availability of the Final Environmental Impact Statements for mining in Yukon Charley Rivers National Preserve, Denali National Park and Preserve, and Wrangell-St. Elias National Park and Preserve, Alaska; correction.

SUMMARY: This document corrects the date listed as the end of the no action

period that appeared at page 21949 in the Federal Register of Wednesday, May 30, 1990, (55 FR 21949).

FOR FURTHER INFORMATION CONTACT: Boyd Evison, Alaska Regional Office, National Park Service, 2525 Gambell Street, Anchorage, Alaska 99503 (telephone (907) 257-2690).

The following correction is made in the FR Doc. 90-12400 appearing on 21949 in the issue of May 30, 1990:

On page 21949 the date listed as the end of the 30 day no-action period is corrected to read July 9, 1990.

Dated: June 26, 1990.

Warren Lee Brown,

Acting Assistant Director, Planning.

[FR Doc. 90-15274 Filed 6-29-90; 8:45 am]

BILLING CODE 4310-70-M

Bison Management Plan, Environmental Impact Statement, Yellowstone National Park, WY

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the Bison Management Plan, Yellowstone National Park.

SUMMARY: Under the provisions of the National Environmental Policy Act, the Montana Department of Fish, Wildlife and Parks; the National Park Service; and the U.S. Forest Service are preparing an environmental impact statement for the Bison Management Plan for the Yellowstone National Park.

In recent years, bison have emigrated during the winter months from within Yellowstone National Park to vacant range for bison outside the park. This has occurred primarily from the Northern Range herd, and to a lesser extent, from the Mary Mountain herd to the west. The bison's acquired knowledge of vacant range, natural gregariousness, increased herd size, weather conditions, and human activity appear to be factors in their movement.

The need to cooperatively prepare a long-range management plan results from this periodic emigration of bison across park boundaries. Because of this movement, bison come into direct conflict with private property owners and the possibility exists for the transmission of the brucella organism (brucellosis) to cattle. In addition to controlling these problems, the long-range management plan will ensure opportunities to view free-roaming bison and guarantee a self-perpetuating bison population in Yellowstone National Park.

A descriptive document (*Yellowstone Bison: Background and Issues*) has been

prepared by the Montana Department of Fish, Wildlife and Parks; the National Park Service; and the U.S. Forest Service. This document contains information on existing bison emigration, an interim bison management program, management policies for all three agencies, areas of concern, and deficiencies needing analysis. A brochure titled *The Yellowstone Bison: Managing a National Heritage* is also available.

Lead and cooperating agencies and the range of alternatives to be considered will be determined during the scoping period.

The above-referenced scoping documents are available from the Director, Montana Department of Fish, Wildlife and Parks, 1420 E. 6th, Helena, MT; Superintendent, Yellowstone National Park, Wyoming 82190; or Forest Supervisor, Gallatin National Forest, P.O. Box 130, Bozeman, MT. Issues raised by the public and other agencies during this scoping process will be analyzed and result in the long-range management plan/EIS. Scoping comments will be received until September 10, 1990 and should be directed to Bison Management Plan, P.O. Box 168, Yellowstone National Park, WY 82190.

FOR FURTHER INFORMATION CONTACT: Superintendent, Yellowstone National Park, (307) 344-7381 or FTS 585-0304.

Dated: June 20, 1990.

Harold P. Danz,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 90-15339 Filed 6-29-90; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, John H. Elgin, (703) 875-1608, IRM/PE, Room 1100B, SA-14, Washington, DC 20523-1407.

Date Submitted: June 20, 1990

Submitting Agency: Agency for

International Development

OMB Number: None

Form Number: None

Type of Submission: New

Title: Participant Data Form

Purpose: The Participant Data Form supplies data to the Participant Training Information System (PTIS). PTIS is the Agency's computer-based repository of official data on all A.I.D.-sponsored participants. The Participant Data Form is completed by contractors, grantees and host country government entities for all A.I.D. sponsored participants in training in the U.S. The Participant Data Form notifies A.I.D. of the participants arrival. It is used to enroll the participant in the health plan and to advise A.I.D. of all changes regarding the participant's program. Finally, it is used to inform A.I.D. that the program has ended and the participant has returned home.

Reviewer: Marshall Mills (202) 395-7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: June 21, 1990.

Wayne H. Van Vechten,

Planning and Evaluation Division.

[FR Doc. 90-15278 Filed 6-29-90; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-52 (Sub-No. 66X)]

Atchison, Topeka and Santa Fe Railway Co. Abandonment Exemption in Sedgwick and Kingman Counties, KS

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903-10904, the abandonment by The Atchison, Topeka and Santa Fe Railway Company of 19.62 miles of rail line between milepost 26.38, near Anness, Sedgwick County, KS, and milepost 46.0, near Rago, Kingman County, KS, subject to environmental and standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on August 1, 1990. Formal expressions of intent to file

an offer¹ of financial assistance under 49 CFR 1152.27(c)(2) must be filed by July 12, 1990, petitions to stay must be filed by July 17, 1990, and petitions for reconsideration must be filed by July 27, 1990. Requests for a public use condition must be filed by July 12, 1990.

ADDRESSES: Send pleadings referring to Docket No. AB-52 (Sub-No. 66X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. and

(2) Petitioner's representative: Guy Vitello, The Atchison, Topeka and Santa Fe Railway Company, 80 East Jackson Boulevard, Chicago, IL 60604.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275-7245.

[TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 275-1721.]

Decided: June 25, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90-15311 Filed 6-29-90; 8:45 am]

BILLING CODE 7035-01-M

Senior Executive Service Performance Review Board; Membership Change

The purpose of this Notice is to designate the following individuals as constituting the membership of the ICC Senior Executive Service Performance Review Board. H.J. Rhodes—Chairman, Jane F. Mackall and William J. Love—members, and David M. Konschnik and Edward E. Guthrie—alternate members. This designation is effective June 8, 1990.

Dated: June 27, 1990.

John W. Raynor,

Chief, Personnel Programs and Policy Branch.

Noreta R. McGee,

Secretary.

[FR Doc. 90-15313 Filed 6-29-90; 8:45 am]

BILLING CODE 7035-01-M

¹ See Exempt. of Rail Abandonment—Offers of Finan. Assist., 41 C.F.R. 164 (1987).

DEPARTMENT OF JUSTICE

Office of Justice Programs

Victims of Crime; Amendment of Discretionary Grant Announcement

AGENCY: Office of Justice Programs, Office for Victims of Crime.

ACTION: An amendment of a discretionary grant program.

SUMMARY: This notice amends a prior notice announcing the availability of grant funds under the Discretionary Grant Program of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, authorized under the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690). The prior notice was published on page 20864 of the Federal Register, Vol. 55, No. 98, on May 21, 1990.

DATES: Applications submitted in response to this announcement will be due August 31, 1990.

ADDRESSES: Office for Victims of Crime, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Special Projects Division, (202) 514-6444, Office for Victims of Crime, 633 Indiana Avenue, NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION: On May 21, 1990, the Office for Victims of Crime published a notice announcing the availability of funds under five new program initiatives. Part II of the Supplementary Information portion of that announcement, provides a program description for an initiative entitled "Law Enforcement Training and Technical Assistance to Improve Treatment of Crime Victims." The purpose of this public notice is to amend the description of that program initiative as it was published on May 21, 1990, on page 20864 of the Federal Register, Vol. 55, No. 98. The program description is amended to reflect three specific changes: (a) Reference to specific consultants with experience in this area is omitted; (b) the possibility of not

making an award is more appropriately referenced; (c) the application deadline is extended to encourage applications from potential applicants who may have been confused by the earlier announcement. The amended program description is as follows:

Law Enforcement Training and Technical Assistance To Improve Treatment of Crime Victims

The goal of this program is to improve the quality of instruction available to law enforcement officials so that they may be better skilled at serving and communicating with crime victims.

The President's Task Force on Victim's of Crime in 1982 recommended that "Police departments should develop and implement training programs to ensure that police officers are: (a) Sensitive to the needs of victims; and (b) informed, knowledgeable, and supportive of the existing local services and programs for victims." Police officers frequently see victims and their families immediately after the crime, when they are most in need of help. The officers' response to these persons often has a major effect on the victim's recovery. Police officers who respond quickly after the report is made, who listen attentively, who show understanding and compassion, and who take appropriate action will greatly assist the victim to overcome fear, injury and other harms. The purpose of this program is to implement the Task Force recommendations for improved law enforcement training and other related reforms which will result in better treatment of crime victims.

The grantee will collect and analyze the best law enforcement training information related to improving the treatment of crime victims for purposes of developing a training curriculum to be adopted by state and local law enforcement training academies. A national seminar may be conducted to introduce the curriculum and focus on how to most effectively train law enforcement officials on topics including

victims' response to violent crime and how to improve victim cooperation with criminal justice officials. Videos that might be developed include methods of responding to victims' concerns during the course of investigation of various violent crimes, including rape, assault, homicide, robbery and burglary. This program will be funded for 12-months duration. One grant of up to \$200,000 is anticipated. Applications submitted in response to this announcement will be due 60 days from the date of publication.

Jane Nady Burnley,

Director, Office for Victims of Crime.

T. March Bell,

Acting General Counsel, Office of General Counsel.

[FR Doc. 90-15275 Filed 6-29-90; 8:45 am]

BILLING CODE 4410-18-M

NUCLEAR REGULATORY COMMISSION

Governors' Designees Receiving Advance Notification of Transportation of Nuclear Waste

On January 6, 1982, the Nuclear Regulatory Commission (NRC) published in the Federal Register, as final, certain amendments to 10 CFR parts 71 and 73 (effective July 6, 1982), which require advance notification to Governors or their designees concerning transportation of certain shipments of nuclear waste and spent fuel. The advance notification covered in part 73 is for spent nuclear reactor fuel shipments and the notification for part 71 is for large quantity shipments of radioactive waste (and of spent nuclear reactor fuel not covered under the final amendment to 10 CFR part 73).

The following list updates the names, addresses and telephone numbers of those individuals in each State who are responsible for receiving information on nuclear waste shipments. The list will be published annually in the Federal Register on or about June 30, to reflect any changes in information.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS

States	Part 71	Part 73
Alabama.....	Col. Thomas H. Wells, Director, Alabama Department of Public Safety, P.O. Box 1511, Montgomery, AL 36192-0501 (205) 242-4378.	Same.
Alaska.....	Mr. Dennis Kelso, Commissioner, Alaska Department of Environmental Conservation, Pouch O, Juneau, AK 99811 (907) 465-2600.	Do.
Arizona.....	Charles F. Tedford, Director, Arizona Radiation Regulatory Agency, 4814 South 40 Street, Phoenix, AZ 85040 (602) 255-4845. After hours: (602) 998-4662.	Do.
Arkansas.....	Greta J. Dicus, Director, Division of Radiation Control and Emergency Management Programs, Arkansas Department of Health, 4815 West Markham Street, Little Rock, AR 72205 (501) 661-2301. After hours: (501) 661-2136 or 661-2000.	Do.
California.....	Robert P. Rengstarff, Chief, California Highway Patrol, P.O. Box 942898, Sacramento, CA 94298-0001 (916) 445-3253.	Do.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

States	Part 71	Part 73
Colorado.....	Captain Lonnie J. Westphal, Officer in Charge, Operational Services Branch, Colorado State Patrol, 700 Kipling Street, Denver, CO 80215 (303) 239-4560. After hours: (303) 239-4501.	Do.
Connecticut.....	The Honorable Leslie Carothers, Commissioner, Department of Environmental Protection, State Office Building, 165 Capitol Avenue, Hartford, CT 06106 (203) 566-2110.	Do.
Delaware.....	Patrick W. Murray, Secretary, Department of Public Safety, P.O. Box 818, Dover, DE 19903 (302) 736-4321.	Do.
Florida.....	Harlan Keaton, Public Health Physicist Manager, Office of Radiation Control, Department of Health & Rehabilitative Services, P.O. Box 15490, Orlando, FL 32858 (305) 297-2095.	Do.
Georgia.....	Tom Doyal, Director, Transportation Division, Public Service Commission, 1007 Virginia Avenue, Hapeville, GA 30354 (404) 761-2229.	Do.
Hawaii.....	John Waihee, Governor, State of Hawaii, Honolulu, HI 96813 (808) 548-5420.	Do.
Idaho.....	Ernest Ranieri, Radiation Physicist Supervisor, Division of Environment, 1410 N. Hilton, Boise, ID 83706 (208) 334-5879. After hours: (208) 344-4090.	Do.
Illinois.....	Thomas W. Ortiger, Director, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, 5th Floor, Springfield, IL 62704 (217) 785-9668 Emergency: (217) 782-6111. After hours: (217) 785-0600.	Do.
Indiana.....	Lloyd R. Jennings, Superintendent, Indiana State Police, 301 State Office Building, 100 North Senate Avenue, Indianapolis, IN 46204 (317) 232-8241. After hours: (317) 232-8248.	Do.
Iowa.....	Ellen M. Gordon, Director, Office of Disaster Services, Hoover State Office Building, Des Moines, IA 50319 (515) 281-3231.	Do.
Kansas.....	Leon H. Mannell, P.E., Administrator, Radiological Systems, The Adjutant General's Department, Division of Emergency Preparedness, P.O. Box C-300, Topeka, KS 66601 (913) 266-1409. After hours: 296-3176.	Do.
Kentucky.....	Donald R. Hughes, Sr., Manager, Radiation Control, Department for Health Services, 275 East Main Street, Frankfort, KY 40621 (502) 564-3700.	Do.
Louisiana.....	Capt. Bill Spencer, Louisiana State Police, 265 South Foster Drive, P.O. Box 66614, Baton Rouge, LA 70896 (504) 925-6113.	Do.
Maine.....	Chief of the State Police, Maine Dept. of Public Safety, 36 Hospital Street, Augusta, ME 04330 (207) 289-2155.	Do.
Maryland.....	Colonel James A. Jones, Chief, Services Bureau, Maryland State Police, 1201 Reisterstown Road, Pikesville, MD 21208 (301) 486-3101.	Do.
Massachusetts.....	Robert M. Hallisey, Director, Radiation Control Program, Massachusetts Department of Public Health, 150 Tremont Street, 11th Floor, Boston, MA 02111 (617) 727-6214.	Do.
Michigan.....	James E. Cox, First Lieutenant, Commanding Officer, Special Operations Section, Michigan Department of State Police, 714 S. Harrison Road, East Lansing, MI 48823 (517) 336-6100.	Do.
Minnesota.....	John R. Kerr, Plans & Operations Coordinator, Minnesota Division of Emergency Management, B5-State Capitol, St. Paul, MN 55155 (612) 296-0481. After hours: (612) 649-5451.	Do.
Mississippi.....	James E. Maher, Director, Mississippi Emergency Management Agency, P.O. Box 4501, Fondren Station, Jackson, MS 39296-4501 (601) 352-9100 (24 hours).	Do.
Missouri.....	Richard D. Ross, Director, State Emergency Management Agency, 1717 Industrial Drive, P.O. Box 116, Jefferson City, MO 65102 (314) 751-9779. After hours: (314) 751-2748.	Do.
Montana.....	Mr. Larry Lloyd, Administrator, Environmental Sciences Division, Department of Health & Environmental Sciences, Room A113, Cogswell Bldg., Helena, MT 59620 (406) 444-3948. After hours: (406) 442-1425.	F. Guy Youngblood, Administrator, Disaster & Emergency Services Division, P.O. Box 4789, Helena, MT 59604 (406) 444-6911.
Nebraska.....	Harold W. LeGrande, Superintendent, Nebraska State Patrol, P.O. Box 94907, State House, Lincoln, NE 68509 (402) 471-2406. After hours: (402) 471-4545.	Do.
Nevada.....	Stanley R. Marshall, Supervisor, Radiological Health Section, Bureau of Regulatory Health Services, Nevada Division of Health, 505 East King Street, Room 202, Carson City, NV 89710 (702) 885-5394.	Do.
New Hampshire.....	Richard M. Flynn, Commissioner, New Hampshire Dept. of Safety, James H. Hayes Building, Hazen Drive, Concord, NH 03305 (603) 271-3636 (24 hours).	Do.
New Jersey.....	Kent Tosch, Chief, Department of Environmental Protection, Bureau of Nuclear Engineering, CN 411, Trenton, NJ 08625 (609) 530-4022.	Do.
New Mexico.....	Roland K. Lough, Chief, Emergency Management Bureau, Department of Public Safety, P.O. Box 1628, Santa Fe, NM 87504-1628 (505) 827-9222. After hours: (505) 294-7932.	Do.
New York.....	Donald A. DeVito, Director, State Emergency Mgmt. Office, Division of Military and Naval Affairs, Public Security Building, State Campus, Albany, NY 12226 (518) 457-2222.	Do.
North Carolina.....	Major Walter K. Chapman, Director, Administrative Services, North Carolina Highway Patrol Headquarters, P.O. Box 27687, Raleigh, NC 27611 (919) 733-7952. After hours: (919) 733-3861.	Do.
North Dakota.....	Dana K. Mount, Director, Division of Environmental Engineering, Department of Health, 1200 Missouri Avenue, Box 5520, Bismarck, ND 58502-5520 (701) 224-2348. After hours: (701) 224-2121.	Do.
Ohio.....	James R. Williams, Chief of Staff, Ohio Emergency Management Agency, 2825 W. Granville Road, Worthington, OH 43235-2712 (614) 889-7150.	Do.
Oklahoma.....	Cient Dedek, Commissioner of Public Safety, Oklahoma Department of Public Safety, 3600 N. King Avenue, P.O. Box 11415, Oklahoma City, OK 73136-0145 (405) 425-2424 (24 hours).	Do.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

States	Part 71	Part 73
Oregon.....	David Stewart-Smith, Administrator, Division of Nuclear Safety and Energy Facilities, Oregon Department of Energy, 625 Marion Street, N.E., Salem, OR 97310 (503) 378-6469.	Do.
Pennsylvania.....	George M. Johnson, Director, Response and Recovery, Pennsylvania Emergency Management Agency, P.O. Box 3321, Harrisburg, PA 17105 (717) 783-8150. After hours: (717) 783-8150.	Do.
Rhode Island.....	William A. Maloney, Associate Administrator, MotorCarriers, Division of Public Utilities and Carriers, 100 Orange Street, Providence, RI 02903 (401) 277-3500.	Do.
South Carolina.....	Heyward G. Shealy, Chief, Bureau of Radiological Health, South Carolina Department of Health & Environmental Control, 2600 Bull Street, Columbia, SC 29201 (803) 734-4632. After hours: (803) 253-6497.	Do.
South Dakota.....	Gary N. Whitney, Division Director, Emergency and Disaster Services, 500 E. Capitol, Pierre, SD 57501 (605) 773-3231.	Do.
Tennessee.....	John White, Assistant Deputy Director, Tennessee Emergency Management Agency, State Emergency Operations Center, 3041 Sidco Drive, Nashville, TN 37204 (615) 252-3300. After hours: 1-800-258-3300.	Do.
Texas.....	Dr. Robert Bernstein, Commissioner, Texas Department of Health, Bureau of Radiation Control, 1100 West 49th Street, Austin, TX 78756 (512) 458-7375.	Col. Joe E. Milner, Director, Texas Department of Public Safety, 5805 N. Lamar Blvd., Austin, TX 78752 (512) 465-2000
Utah.....	Larry F. Anderson, Director, Bureau of Radiation Control, 288 N. 1460 West, P.O. Box 16690, Salt Lake City, UT 84116-0690 (801) 539-6734. After hours: (801) 538-6333.	Do.
Vermont.....	Susan C. Crampton, Secretary, Vermont Agency of Transportation, 133 State Street, Montpelier, VT 05602 (802) 828-2657.	Do.
Virginia.....	Michael M. Cline, Director of Operations, Department of Emergency Services, Commonwealth of Virginia, 310 Turner Road, Richmond, VA 23225 (804) 674-2400.	Do.
Washington.....	Robert J. Huss, Deputy Chief, Washington State Patrol, General Administration Building, Mail Stop AX-12, Olympia, WA 98504-0612 (206) 586-2340.	Do.
West Virginia.....	Colonel J. R. Buckalew, Superintendent, Department of Public Safety, 725 Jefferson Road, South Charleston, WV 25309 (304) 746-2111.	Do.
Wisconsin.....	BG (Ret.) Richard I. Braund, Administrator, Wisconsin Division of Emergency Government, 4802 Sheboygan Ave., Room 99A, P.O. Box 7865, Madison, WI 53707 (608) 266-3232.	Do.
Wyoming.....	Julius E. Haas, Jr., Chief, Radiological Health Services, Department of Health & Social Services, Hathaway Building, Cheyenne, WY 82002-0710 (307) 777-6015. After hours: (307) 777-7244.	Do.
District of Columbia.....	Norma J. Stewart, Program Manager, Pharmaceutical and Medical Devices Control Division, Department of Consumer and Regulatory Affairs, 614 H Street, NW., Washington, DC 20001 (202) 727-7219. After hours: (202) 727-6161.	Do.
Puerto Rico.....	Santos Rohena, Jr., Chairman, Environmental Quality Board, P.O. Box 11488, Santurce, PR 00910 (809) 722-1175 or (809) 725-5140.	Do.
Guam.....	Fred M. Castro, Administrator, Guam Environmental Protection Agency, P.O. Box 2999, Agaña, Guam 96910 (671) 646-7579.	Do.
Virgin Islands.....	Honorable Juan Luis, Governor, Government House, Charlotte Amalie, St. Thomas, Virgin Islands 00801 (809) 774-0001.	Do.
American Samoa.....	Mr. Pati Faia, Government Ecologist, Environmental Protection Agency, Office of the Governor, Pago Pago, American Samoa 96799 (684) 633-2304.	Do.
Commonwealth of the Northern Mariana Islands.....	Nicolas M. Leon Guerrero, Director, Department of Natural Resources, Commonwealth of Northern Mariana Islands Government, Capitol Hill, Saipan, MP 96950 (670) 322-9830 or (670) 322-9834.	Do.

Questions regarding this matter should be directed to Mindy Landau at (301) 492-0308.

Dated at Rockville, MD this 24th day of May, 1990.

For the Nuclear Regulatory Commission.

Carlton Kammerer,
Director, State Programs, Office of
Governmental and Public Affairs.

[FR Doc. 90-15301 Filed 6-29-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250-OLA-4; 50-251-OLA-4; (Pressure/Temperature Limits)]

Florida Power & Light Co.; Turkey Point Nuclear Plant Units 3 and 4, Postponement of Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of June 25, 1990, oral argument on the consolidated appeals of (1) Thomas J. Saporito, Jr., and the Nuclear Energy Accountability Project (NEAP) and (2) Joette Lorion and the Center for Nuclear Responsibility (CNR) from two Licensing

Board decisions issued on January 16, 1990, scheduled for Tuesday, July 10, 1990, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland, is postponed until further order.

For the Appeal Board.

Dated: June 26, 1990.

Barbara A. Tompkins,
Secretary to the Appeal Board.
[FR Doc. 90-15315 Filed 6-29-90; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power & Light Co. (Oyster Creek Nuclear Generating Station); Exemption**I**

The GPU Nuclear Corporation and Jersey Central Power & Light Company (GPUN/the licensee) are the holders of Provisional Operating License No. DPR-16, which authorizes operation of the Oyster Creek Nuclear Generating Station, (the facility) at steady state reactor core power levels not in excess of 1930 megawatts thermal. The license provides, among other things, that Oyster Creek Nuclear Generating Station is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The plant is a boiling water reactor (BWR) located at the licensee's site in Ocean County, New Jersey.

II

On November 19, 1980, the NRC published a revised Code of Federal Regulations, section 10 CFR 50.48 and a new Appendix R to 10 CFR part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains fifteen (15) subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.G, is the subject of this exemption request. Specifically, section III.G requires that the plant have fire protection of shutdown capability.

III

By letter dated August 25, 1986, the licensee requested exemptions from certain technical requirements of section III.G of appendix R to 10 CFR part 50 for specific areas of the plant. The specific exemptions requested are as follows:

1. An exemption is requested from the requirement of section III.G.2 for not providing area wide automatic fire suppression in Fire Zone RB-FZ-1D, Elevation 51 feet.

2. An exemption is requested from the requirement of section III.G.2 for not providing area wide automatic fire suppression in Fire Zone RB-FZ-1E, Elevation 23 feet.

3. For the Fire Zone RB-FZ-1E, elevation 23 feet, a second exemption is requested from the requirement of section III.G.2 for not providing specific protection for the reactor scram system circuitry in the fire zone.

4. For the Fire Zone RB-FZ-1E, elevation 23 feet, a third exemption is requested from the requirement of section III.G.2 for not providing either additional separation from in situ combustibles or protection for CRD Hydraulic System Bypass Valve V-15-30.

5. For the Fire Zone RB-FZ-1E, elevation 23 feet, a fourth exemption is requested from the requirement of section III.G.2 for not providing a one-hour fire barrier for drywell penetration box P-13.

6. An exemption is requested from the requirement of section III.G.2 for not providing area wide automatic suppression in Fire Zone RB-FX-1F, elevation (-19) feet.

7. For Fire Zone RB-FZ-1F, elevation (-19) feet, a second exemption is requested from the requirement of section III.G.2 for not providing either additional separation from in situ combustibles or protection for core spray system valve V-20-1.

8. An exemption is requested from the requirement of section III.G.2 for not providing a 3-hour rated fire barrier for the portion of circuit 14-25 that is located in Fire Zone TF-FZ-1B Turbine Lube Oil Storage, Pumping and Purification Areas.

9. An exemption is requested from the requirements of section III.G.2 and III.G.3 for not providing automatic fire detection in Fire Zone TB-FZ-11D.

10. An exemption is requested from the requirement of section III.G.3 for not providing automatic fire detection in Fire Zone TB-FZ-11E.

11. An exemption is requested from the requirement of section III.G.2 for not providing a 3-hour fire barrier for Train "A" electrical power system circuit 14-22.

12. An exemption has been requested from the requirement of section III.G.2 for not providing automatic fire suppression for the corridor area of new Fire Zone OB-FZ-6B, which has been created out of the Fire Area OB-FA-6.

13. An exemption has been requested from the requirement of section III.G.2 for not providing that at least one safe shutdown path needed to maintain hot shutdown is free of fire damage without any repair. The exemption is requested to allow minor repairs outside of Fire Area OB-FZ-6A-480 Volt Switchgear Room to provide the required hot shutdown capability for the new Fire Zone OB-FZ-6 created out of Fire Area OB-FA-6.

14. An exemption has been requested from the requirements of section III.G.2 for not providing automatic fire detection in Fire Zone OB-FZ-8A Motor Generator Set Room.

15. For the Fire Zone OB-FZ-8A, a second exemption is requested from the requirement of section III.G.2 for not providing specific protection for the reactor recirculation valve circuits contained in this fire zone.

16. An exemption is requested from the requirements of section III.G.2 for not providing specific protection to reactor scram circuits located in Fire Zone OB-FZ-8C-Battery Room, Tunnel and Electrical Tray Room, elevation 35 feet.

17. For the Fire Zone OB-FZ-8C, a second exemption is requested from the provisions of section III.G.2 for not providing specific protection to the reactor recirculation valve circuits contained in this fire zone.

The staff has reviewed the licensee's request and the supporting technical information contained in the licensee's August 25, 1986 letter, in a Safety Evaluation, dated June 25, 1990. For the reasons set out in that evaluation, the staff agrees with GPU Nuclear Corporation and in each case we have concluded that the requested exemptions are valid and should be granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission has further determined that special circumstances, as set forth in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption, namely that the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of this rule is to provide the plant with fire protection of shutdown capability. As a result of the staff's review, the staff concludes that because modifications assure that safe shutdown will occur for each affected fire zone, strict compliance of the rule is not necessary to achieve fire protection shutdown capability. Accordingly, the Commission hereby grants an exemption as described in Section III above from the requirements of section III.G of appendix R to 10 CFR part 50.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (55 FR 25752).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 25th day of June, 1990.

Steven A. Varga,

Director, Division of Reactor Projects—I/II,
Office of Nuclear Reactor Regulation.

[FR Doc. 90-15313 Filed 6-29-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322]

**Long Island Lighting Co. (Shoreham Nuclear Power Station Unit 1):
Exemption**

I

Long Island Lighting Company (the licensee) is the holder of Facility Operating License No. NPF-82, which authorizes full power operation of the Shoreham Nuclear Power Station (SNPS). The facility is a boiling water reactor, currently shutdown and defueled, located at the licensee's site in Suffolk County, New York. The licensee provides, among other things, that the licensee is subject to all rules, regulations and orders of the Commission now or hereafter in effect.

II

By letter dated December 8, 1969, the licensee requested an exemption from 10 CFR 50.54(o) and, in turn, the requirements of appendix J to 10 CFR part 50 related to conducting containment leak rate tests.

Pursuant to appendix J to 10 CFR part 50, each commercial power reactor licensee is required to perform periodic tests to demonstrate the integrity of primary containment. The licensee seeks an exemption from performing these periodic tests. On March 16, 1990, the staff sent a letter to the licensee that provided temporary relief from compliance with the requirements of 10 CFR 50.54(o) and appendix J, sections III.D.1 through III.D.3. This exemption supercedes that temporary March 16, 1990 letter.

III

In its letter of December 8, 1989 requesting this exemption, the licensee provides justification that the exemption would not pose an "undue risk to the public health and safety" as a basis for granting this exemption, under the requirements of 10 CFR 50.12. In addition, the licensee cites three "special circumstances" set forth in 10 CFR 50.12 as applicable to its exemption request.

Because it is contractually obligated not to operate Shoreham—and given that the plant is shutdown and defueled, and the reactor vessel internals are being removed—the design basis loss-

of-coolant accident has no significance at Shoreham. Thus, the basis for primary containment leak rate testing to ensure continued integrity of principal fission product barriers to mitigate the consequences of the design basis accident no longer exists. In addition, Shoreham's Technical Specification (TS) requirements to conduct primary containment leak rate testing are tied to the plant's operational condition. If containment integrity is not maintained, TS require that the plant be placed in cold shutdown. As noted above, the plant is shutdown and defueled, and the reactor vessel internals have been or are being removed. There is no requirement that containment leak rate testing be performed as a condition of cold shutdown. The fact that nonperformance of Appendix J testing is consistent with Shoreham's Technical Specifications is cited as further evidence that the requested exemption would not pose an "undue risk" to public health and safety.

As the first "special circumstance" applicable to this exemption, the licensee states that continuing to apply containment leak rate test requirements would neither serve the underlying purpose of Appendix J, nor is such testing necessary to achieve the underlying purpose of the rule. As noted above, the purpose of requiring containment leak rate tests is to ensure that there will not be an uncontrolled release of radioactive material as a result of the failure of the two other principal fission product barriers (fuel cladding and reactor coolant system) during an accident. Specifically, the design basis accident that is assumed to occur is the standard loss-of-coolant accident described in Chapter 15, Accident Analysis, of the Shoreham USAR. With fuel removed from the reactor vessel and stored in the fuel pool, such an accident is not credible at Shoreham.

As part of its second "special circumstance", LILCO states that conducting Appendix J containment leak rate testing would result in undue hardship and costs that are significantly in excess of those contemplated when the regulation was adopted. Specifically, it costs LILCO approximately \$138,000 to perform a Type A containment integrated leak rate test, and approximately \$445,000 to conduct the Type B and C local leak rate tests each 18-24 month cycle. However, and as explained above, with Shoreham shutdown and defueled, performance of appendix J testing will not result in any increased protection of public health and safety. The costs incurred by LILCO as an NRC licensee will be reflected in the rates paid by the Company's

customers. Thus, requiring LILCO to conduct Appendix J testing imposes an undue hardship on both LILCO and its ratepayers.

The remainder of the second "special circumstance" relates to LILCO's assertion that requiring compliance with appendix J would subject it to costs that are significantly in excess of those incurred by others similarly situated. That is, the NRC has granted exemptions from appendix J to other utilities in similar situations. As examples, LILCO cites the appendix J Type A exemption granted Boston Edison Company (BECO) for Pilgrim Nuclear Power Station in December 1986, and the Type B and C exemption granted the Tennessee Valley Authority for its Sequoyah Nuclear Plant, Unit 1, in July 1988.

As its third "special circumstance" under 10 CFR 50.12, LILCO states that this exemption is only temporary, because it would terminate should the plant be placed in some Operational Condition (mode) for which Primary Containment Integrity is required. In addition, LILCO notes that it has made a good faith effort to comply with 10 CFR part 50, appendix J in the past. LILCO cites tests conducted when it received its fuel loading license in 1984, and subsequent tests conducted in 1986 and 1987.

Based on its review of the exemption request, the Commission finds that granting this exemption presents no undue risk to the public health and safety and special circumstances exist as set forth in 10 CFR 50.12.

IV

The NRC may grant exemptions from the requirements of regulations that, pursuant to 10 CFR 50.12(a), are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) present special circumstances.

The Commission has reviewed the licensee's request for this exemption from the requirements of 10 CFR part 50, 10 CFR 50.54(o) and 10 CFR part 50 appendix J containment leak rate testing. The Commission finds that the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Further, the licensee has shown special circumstances as described above.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption from 10 CFR part 50 appendix J leak rate testing will

have no significant impact on the environment (55 FR 25753).

Accordingly, the Commission hereby approves the following exemption:

The licensee is exempt from performing containment leak rate testing required by 10 CFR 50.54(o) and 10 CFR part 50, appendix J, as long as Shoreham Unit 1 remains shutdown, defueled and in Operational Condition 5 (Shutdown or Refuel).

The licensee's letter, dated December 8, 1989, the NRC staff's letter dated March 16, 1990, and the NRC staff's letter and Safety Evaluation dated 6/25/90, related to this action are available for public inspection at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786.

The exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 25 day of June 1990.

Steven A. Varga,

Director, Division of Reactor Projects I/II,
Office of Nuclear Reactor Regulation.

[FR Doc. 90-15316 Filed 6-29-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-280]

Virginia Electric and Power Co. (Surry Power Station, Unit 1); Exemption

I

The Virginia Electric and Power Company (VEPCO, the licensee) is the holder of Operating License No. DPR-32, which authorizes operation of Surry Power Station (SPS), Unit 1. The operating license provides, among other things, that the SPS, Unit 1 is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of a pressurized water reactor at the licensee's site in Surry County, Virginia.

II

One of the conditions of all operating licenses for water-cooled power reactors, as specified in 10 CFR 50.54(o), is that the primary containments shall meet the leakage test requirements set forth in 10 CFR part 50, appendix J. More specifically, section III.D.3 of appendix J, "Type C tests," requires that:

Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years.

By letter dated January 8, 1990, as clarified March 20 and April 20, 1990, VEPCO requested a schedular exemption from the regulatory

requirements of 10 CFR part 50, appendix J, section III.D.3. In these submittals, VEPCO evaluated the acceptability of the exemption request. More details are contained in the NRC's Safety Evaluation issued concurrent with this exemption.

III

SPS, Unit 1 was shut down for refueling April 9 through July 18, 1988 when local leak rate testing and the 18-month and refueling surveillance tests were last completed. In September 1988 the unit was shut down again for an extended maintenance outage which lasted 299 days (approximately 10 months).

The Local Leak Rate Testing Program (Type C testing) was performed during the refueling outage and completed on June 23, 1988. Due to the subsequent extended maintenance outage, the next refueling outage is currently scheduled for the fourth quarter of 1990. The interval between the refueling outages will exceed the 2-year limit of appendix J. Therefore, an exemption to this appendix J requirement in the form of a one-time extension of the interval is being requested. In addition to this exemption request, a request for a one-time Technical Specification change to provide the same relief is being requested. A footnote will be added to TS 4.4.B.2 and 4.4.D denoting the appendix J exemption.

As indicated above, the intent of appendix J was that isolation valves and associated penetrations be tested during each refueling outage not to exceed 2 years. SPS, Unit 1 is presently scheduled to conduct a refueling outage in October 1990. The exemption would allow local leak rate Type C tests for the 70 TS valves to be postponed until the next refueling outage. Such an extension is desirable in order to prevent premature shutdown. However, in the event the refueling outage is delayed by more than 2 months beyond the current projection of October 1990, approval of deferral would become invalid and the licensee would have to seek new approval. This provision has been discussed with and found acceptable by the licensee's staff and has been incorporated into the associated amendment to the Technical Specifications.

During an extended maintenance outage which lasted approximately 10 months, modifications and testing were performed on the emergency diesel generators, the Circulating and Service Water Systems and the Electrical Distribution System. In addition, during this time plant components were not exposed to the normal operating temperatures, pressure and radiation

conditions. The time interval of 2 years, specified in appendix J, was based, in part, on the expected degradation of components exposed to the environment resulting from a full 24 months of normal plant operation. The total exposure time for the containment penetration to normal plant operating environment will be only about 15 months and is exposed to a less hostile environment during shutdown conditions.

The 2-year interval requirement for the Type C penetrations is intended to be often enough to prevent significant deterioration from occurring and long enough to permit the local leak rate tests (LLRTs) to be performed during plant outages. In addition, leak testing of the penetrations during plant shutdown is preferable because of the lower radiation exposures to plant personnel. Moreover, some penetrations, because of their intended functions, cannot be tested at power operation. For penetrations that cannot be tested during power operation or those that if tested during plant operation would cause a degradation in the plant's overall safety (e.g., the closing of a redundant line in a safety system), the increase in confidence of containment integrity following a successful test is not significant enough to justify a plant shutdown specifically to perform the LLRTs within the 2-year time period, especially in light of the above discussions.

IV

Pursuant to 10 CFR 50.12(a)(2)(v), the Commission will not consider granting a schedular exemption unless the licensee has made good faith efforts to comply with the regulation. The NRC staff believes that VEPCO has taken prudent steps to improve the containment integrity and if not for the extended refueling outage would have complied with appendix J.

Based on our evaluation, the NRC staff has concluded VEPCO has made good faith efforts to comply with the requirements of appendix J and that the special circumstances as described in 10 CFR 50.12(a)(2)(v) exist, in that the exemption would provide only temporary relief from the applicable regulation. Therefore, the staff has determined that the schedular exemption for 10 CFR part 50, appendix J should be granted.

V

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, the exemption is authorized by law, will not endanger life or property or the common defense and security, and is

otherwise in the public interest. Therefore, the Commission hereby approves the following exemption request.

A temporary exemption is granted from the requirements of section III.D.3, which requires a local leak rate test be conducted within a 2 year interval. For good cause shown, this exemption extends that period by approximately 6 months from June 23, 1990 until December 31, 1990. However, in the event the refueling outage is delayed by more than 2 months beyond the current projection of October 1990, approval of the deferral would become invalid and the licensee would have to seek new approval.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (55 FR 25754).

A copy of the licensee's request for exemption dated January 9, 1990, as clarified March 20 and April 20, 1990, is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 22nd day of June 1990.

For the Nuclear Regulatory Commission,
Steven A. Varga,
Director, Division of Reactor Projects—I/II,
Office of Nuclear Reactor Regulation.
[FR Doc. 90-15317 Filed 6-29-90; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28142; File No. SR-Amex-90-09]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by American Stock Exchange, Inc. Relating to Amendments to Article II, Section 4 of its Constitution

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 4, 1990, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Article II, Section 4 of its Constitution in order to (1) expand the number of governors on the Amex Executive Committee from five to seven; and (2) permit members of any Amex committee to participate in meetings by means of a conference telephone.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

(a) *Expansion of Executive Committee.* The Exchange's Board of Governors recently decided to reduce the number of regular Board meetings conducted annually from eleven to seven. This reduction is in accordance with Article II, Section 2 of the Exchange Constitution which provides that regular Board meetings be held at such times as the Board may designate by resolution. The Exchange believes that while it is expected that having fewer, more comprehensive meetings will enable the Board to conduct its business in a more efficient manner, it is likely that this approach will increase the matters which may come before the Executive Committee due to the Executive Committee's delegated authority to handle certain Board matters. The Exchange believes, therefore, that in order to facilitate review of these additional matters, the number of governors comprising the Executive Committee should be increased from five to seven members.

Currently, pursuant to Rule II, Section 4(a), the five members required to comprise the Executive Committee consist of the Chairman of the Board, two member governors (one who is

primarily a floor governor, and one who is principally engaged in office functions), and two public governors. The Exchange believes that if the Executive Committee is comprised of seven members—consisting of the Chairman of the Board, two upstairs industry governors, two floor governors, and two public governors—the current balance between upstairs industry, floor and public representation will be preserved.

(b) *Conference Telephone Authorization.* Currently, Article II, section 4(e) generally allows the Executive Committee and each committee authorized by the Exchange Board to determine the manner and form in which its proceedings shall be conducted. In order to facilitate quorum requirements, the Exchange proposes to Amend Article II, section 4(e) of its Constitution by adding language which will permit members of any committee to participate in meetings by means of a conference telephone, or similar communications equipment, thereby allowing all persons participating in the meeting to hear each other at the same time. The Exchange believes that adoption of the proposed provision will enable a committee member in certain, unusual situations to participate in the meeting by conference telephone. Such a member, therefore, will be able to vote on any issue which comes before the Committee at the meeting, and thus be counted towards a quorum.

The New York Not-For-Profit Corporation Law, under which the Exchange is organized, permits this proposed procedure, provided it is authorized by the corporate by-laws (i.e., the Exchange Constitution in this case). Without such authorization, if an in-person quorum cannot be achieved, the only alternative is to secure unanimous written consent to action without a meeting.

Even though the Exchange believes that the proposal will make Amex quorum requirements easier to meet due to the ready availability and reliability of conference equipment, the Exchange anticipates that this procedure will be used sparingly, and that, ordinarily, committee members will continue to attend meetings in person. According to the Exchange, each committee will retain the authority to establish its own procedures and to determine when and under what circumstances a telephone conference will be permitted.

(2) Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act in general, and

further the objectives of section 6(b)(3) of the Act in particular, in that it assures a fair representation of Exchange members in the administration of its affairs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change is concerned solely with the administration of the self-regulatory organization, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-90-09 and should be submitted by July 23, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 25, 1990.
Margaret H. McFarland,
Deputy Director.
[FR Doc. 90-15256 Filed 6-29-90; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-28143; File No. SR-MSE-90-08]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Adoption of Listing Standards and a Membership Circular for Contingent Value Rights

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 1, 1990, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The MSE has requested accelerated approval of the proposal.¹ The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new Rule 9 under Article XXVIII of the MSE's Rules to provide listing standards applicable to Contingent Value Rights ("CVRs").² The Exchange also proposes the adoption of a Circular to the Membership ("Circular") which will be distributed to members regarding the trading of CVRs.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

¹ See letter from Daniel J. Liberti, Associate Counsel, MSE, to Mary Revell, Branch Chief, SEC, dated June 14, 1990.

² The exact text of the proposed listing standards and the circular to members on CVRs were attached to the rule filing as Exhibits A and B, respectively, and are available at the MSE and the Commission at the address noted in Item III below.

the places specified in Item IV below and is set forth in Sections A, B and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

(i) The Exchange is proposing to adopt new Rule 9 under Article XXVIII of the MSE's Rules to provide listing standards to permit the listing of CVRs which are unsecured obligations of the issuer providing for a possible cash payment at maturity.³ However, such cash payment, if any, is based upon the price performance of an affiliate's equity security.

At maturity, the holder of a CVR is entitled to a cash payment if the market price of the related equity security is less than a pre-set target price. The target price is typically established at the time the CVR is issued. Conversely, should the market price of the related equity security equal or exceed the target price, the CVR holder is not entitled to any cash payment at maturity.

Under the proposal, only CVRs issued by companies that meet the Exchange's financial listing criteria for size and earnings⁴ and that have assets in excess of \$100 million would be eligible for listing. The Exchange proposes to require minimum public distribution of 600,000 CVRs together with a minimum of 400 public holders and an aggregate market value of \$18,000,000. In addition, the maturity of the CVRs must be at least one year.

The Exchange also proposes continued listing standards for CVRs which would require a minimum aggregate market value of publicly-held CVRs of \$1,000,000. In addition, the Exchange will also consider delisting the CVRs if the related equity security to

³ The Commission recently approved similar proposals by the New York Stock Exchange ("NYSE") and the American Stock Exchange ("Amex"). See Securities Exchange Act Release No. 28072 (May 30, 1990), 55 FR 23166 (June 6, 1990) (adoption by the NYSE of listing standards for CVRs) and Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8624 (March 8, 1990) (adoption by the Amex of listing standards for new hybrid products).

⁴ The MSE requires that to be listed on the Exchange, an issuer must have: (1) Annual earnings of at least \$100,000; (2) 250,000 or more outstanding shares of common or preferred stock, exclusive of the holdings of officers, directors, controlling stockholders, and other concentrated or family holdings; (3) between 1,000 and 3,000 public holders, depending upon the price of the listed stock; and (4) at least \$2 million in net tangible assets. See MSE Article XXVIII, Rule 7.

which cash payment at maturity is tied is delisted.

(ii) *Risk Disclosure.* The Exchange will distribute a Circular explaining specific risks associated with CVRs. The Circular will emphasize the need to disclose to CVR investors the special characteristics of CVRs and will suggest that transactions in CVRs be recommended only to investors whose accounts have been approved for options trading or after ascertaining that CVRs are suitable for the customer.

(2) Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is, among other things, designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this title matters not related to the purpose of this title or the administration of the exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in

accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the MSE. All submissions should refer to File No. SR-MSE-90-08 and should be submitted by July 23, 1990.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the MSE's proposal to provide listing standards for the listing of CVRs on the Exchange is consistent with the requirements of the Act and the rules and requirements thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the act.⁶ In particular, the Commission believes the proposal is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers, or dealers. In today's financial markets, new and innovative financial vehicles continue to be created that are issued and proposed for trading on exchange markets. Over the past several years, the Commission has approved listing criteria for various new products for trading on exchange markets, such as index warrants,⁶ and foreign currency warrants.⁷ In addition, the Commission recently approved listings standards on the NYSE for CVRS⁸ and listing standards on the Amex to accommodate new products, such as CVRs.⁹ In response to these new products, the Commission has carefully identified and evaluated certain regulatory concerns which must be addressed by the exchange that proposes to list and trade these products.

⁶ 15 U.S.C. 78f (1982).

⁷ See Securities Exchange Act Release No. 26152 (October 3, 1988), 53 FR 39832 (October 12, 1988) (approving File No. SR-Amex-87-27) (listing guidelines for foreign currency and index warrants) and Securities Exchange Act Release No. 27565 (December 12, 1989), 55 FR 376 (January 4, 1990) (File No. SR-Amex-89-22) (proposal to list index warrants based on the Nikkei Stock Average).

⁸ See Securities Exchange Act Release No. 24555 (June 5, 1987), 52 FR 22570 (June 12, 1987) (File No. SR-Amex-87-15) (proposal to list warrants on foreign currencies).

⁹ Securities Exchange Act Release No. 28072 (May 20, 1990), 55 FR 23166 (June 6, 1990) (approving File No. SR-SYSE-90-15).

¹⁰ Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8624 (March 8, 1990) (approving File No. SR-Amex-89-29).

The Commission believes that the MSE's proposal to establish listing criteria for CVRs addresses the special concerns raised by these new investment products. The proposed quantitative listing standards should ensure that only substantial companies capable of meeting their financial obligations issue CVRs. This is important in light of the contingent financial obligations created by these instruments, and should serve to protect investors and the public interest by ensuring that the companies listing CVRs on the Exchange have sufficient financial means to meet their settlement obligations.

In addition, the Exchange has proposed to distribute a Circular apprising member firms of the special characteristics, risks, and suitability obligations associated with CVRs. The Commission believes distribution of this Circular should provide the MSE with the ability to address any potential sales practice problems and questions that may arise in connection with these CVRs. Moreover, the Commission believes that use of this Circular will help ensure that only customers with an understanding of the risks attendant to the trading of CVRs trade these products on their brokers' recommendations. Finally, this Circular will alert members to the special disclosure and suitability obligations involved in this product and suggest that transactions in CVRs be recommended only to investors whose accounts have been approved for options trading or after ascertaining that CVRs are suitable for the customer.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Commission approved a substantially similar proposal by the NYSE on May 30, 1990, which adopted listing standards and a membership circular for trading CVRs on that exchange.¹⁰ The Commission believes that the only aspect where the MSE proposal differs from the recently approved NYSE CVR listing standards—the MSE would require a lower number of public holders¹¹ is not significant because the Commission is satisfied that the requirement of 400 public holders would provide broad public distribution. Further, the Amex's listing standards for hybrid products, including CVRs, approved by the Commission on March

¹⁰ See, *supra* note 8.

¹¹ In its listing standards for CVRs, the NYSE requires a minimum of 1,200 public holders. The current MSE proposal would require 400 public holders.

1, 1990, also requires 400 public holders.¹² In addition, the Commission feels that the assets and earnings standards set by the MSE for issuers that wish to list CVRs will ensure that only bona fide companies capable of meeting their settlement obligations list CVRs on the Exchange. Finally, both the NYSE's proposal to list CVRs and the Amex's proposal to list new hybrid products were noticed and published for comment for the full statutory time period and no comments were received by the Commission on either proposal.

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act¹³ that the proposed rule change is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 25, 1990.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-15257 Filed 6-29-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17548; File No. 812-7466]

Henderson International Growth Fund, et al.

June 22, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

Applicants: Henderson International Growth Fund (formerly, Henderson Global Asset Trust) (the "Trust"), Henderson International, Inc. ("Henderson" or "Manager") and certain life insurance companies and their separate accounts (collectively, the "Applicants").

Relevant 1940 Act Sections: Exemptions requested under section 6(c) from sections 9(a), 13(a), 15(a), and 15(b) of the Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

Summary of Application: Applicants seek an order to permit shares of any current or future series of the Trust and shares of certain other separately organized, registered management investment companies for which Henderson may serve as investment manager in the future to be sold to and held by variable annuity and variable life separate accounts of both affiliated and unaffiliated life insurance companies.

Filing Date: The application was filed on January 29, 1990 and amended on May 14, 1990.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by 5:30 p.m., on July 17, 1990. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Henderson International Growth Fund, 312 Plum Street, suite 1100, Cincinnati, Ohio 45202; Henderson International, Inc., 3 Finsbury Avenue, London EC2M 2PA, England.

FOR FURTHER INFORMATION CONTACT: Joyce Pickholz, Staff Attorney at (202) 272-3046 or Heidi Stam, Assistant Chief, Office of Insurance Products at (202) 272-2060 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations:

1. The Trust is an open-end, management investment company organized as a Massachusetts business trust. Although the Trust currently consists of one series of shares (the "Fund"), the Board of Trustees may establish additional series of shares at any time, each with its own investment objective or objectives and policies. Shares of the Fund are presently offered only to the American Skandia Life Assurance Corporation Variable account B, a separate account of Skandia Life Assurance Corporation ("Skandia"), to serve as an investment vehicle for the LifeVest Personal Security Annuity, a variable annuity contract issued by Skandia. It is intended, however, that shares of the Fund and of any future series of the Trust or separately organized, registered management investment company that serves exclusively as an investment vehicle for separate accounts and for which Henderson may serve as

investment manager (collectively, "Other Funds") will be offered to separate accounts of other insurance companies, including insurance companies that are not affiliated with Skandia ("participating insurance companies"), to serve as the investment vehicle for various types of insurance products ("variable contracts").

2. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of the same life insurance company or of any affiliated life insurance company is referred to herein as "mixed funding." The use of a common management company as the underlying investment medium for variable life insurance separate accounts of one insurance company and separate accounts funding variable contracts of one or more unaffiliated life insurance companies is referred to herein as "shared funding."

3. Rule 6e-2(b)(15) under the Act provides partial exemptions from sections 9(a), 13(a), 15(a), and 15(b) of the Act in connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the Act as a unit investment trust ("Trust Account"). However, Rule 6e-2(b)(15) does not permit mixed funding or shared funding. Rule 6e-3(T)(b)(15) under the Act provides partial exemptions from sections 9(a), 13(a), 15(a), and 15(b) of the Act in connection with the funding of flexible premium variable life insurance contracts issued through a Trust Account. However, Rule 6e-3(T)(b)(15) does not permit shared funding. Applicants request an exemptive order for themselves and variable life insurance separate accounts of participating life insurance companies (and principal underwriters and depositors of such separate accounts) to the extent necessary to permit shares of the Fund or of any Other Fund to be offered and sold to, and held by, (1) variable annuity separate accounts and variable life insurance separate accounts of the same life insurance company or of affiliated life insurance companies (i.e., mixed funding); and (2) variable life insurance separate accounts of one life insurance company and separate accounts funding variable contracts of other unaffiliated life insurance companies (i.e., shared funding).

4. Section 9(a) of the Act provides that it is unlawful for any company to serve as investment adviser to or principal underwriter for any registered open-end investment company if an affiliated

¹² See, *supra* note 9.

¹³ 15 U.S.C. 78s(b)(2) (1982).

person of that company is subject to a disqualification enumerated in sections 9(a) (1) or (2). Rule 6e-2(b)(15) (i) and (ii) and Rule 6e-3(T)(b)(15) (i) and (ii) provide exemptions from section 9(a) under certain circumstances, subject to the limitations discussed above on mixed and shared funding. These exemptions limit the applicability of the eligibility restrictions to affiliated individuals or companies that directly participate in the management of the underlying management company.

The application states that the partial relief granted in Rules 6e-2(b)(15) and 6e-3(b)(15) from the requirements of section 9 limits, in effect, the monitoring of an insurer's personnel that would otherwise be necessary to ensure compliance with section 9 to that which is appropriate in light of the policy and purposes of section 9. Applicants state that Rules 6e-2 and 6e-3(T) recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the Act to apply the provisions of section 9(a) to the many individuals in an insurance company complex, most of whom typically will have no involvement in matters pertaining to investment companies in that organization. Applicants submit that there is no regulatory reason to apply the provisions of section 9(a) of the Act to the many individuals in various unaffiliated insurance companies (or affiliated companies of participating insurance companies) that may utilize the Fund or any Other Fund as the funding medium for variable contracts.

5. Rules 6e-2(b)(15)(iii) and 6e-3(T)(b)(15)(iii) provide partial exemptions from sections 13(a), 15(a), and 15(b) of the Act to the extent that those sections have been deemed to require "pass-through" voting with respect to management investment company shares held by a separate account, to permit the insurance company to disregard the voting instructions of its contractowners in certain circumstances. Rules 6e-2(b)(15)(iii)(B) and 6e-3(T) (15)(iii)(B) provide that the insurance company may disregard contractowner's voting instructions if the contractowners initiate any change in such company's investment policies, principal underwriter, or any investment adviser (provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraph (b)(5)(ii) and (b)(7)(ii)(B) and (C) of the Rules).

6. Applicants submit that shared funding by unaffiliated insurance companies does not present any issues

that do not already exist where a single insurance company is licensed to do business in several or all states. In this regard, Applicants state that a particular state insurance regulatory body could require action that is inconsistent with the requirements of other states in which the insurance company offers its policies. Accordingly, Applicants submit that the fact that different insurers may be domiciled in different states does not create a significantly different or enlarged problem.

7. Applicants state that the right under Rules 6e-2(b)(15)(iii) and 6e-3(T)(b)(15)(iii) of the insurance company to disregard the voting instructions of its contractowners does not raise any issues different from those raised by the authority of state insurance administrators over separate accounts and that affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment adviser initiated by contractowners. The application points out that the potential for disagreement is limited by the requirements in Rules 6e-2 and 6e-3(T) that the insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations.

8. Applicants submit that mixed funding and shared funding should benefit variable contractowners by: (1) Eliminating a significant portion of the costs of establishing and administering separate funds; (2) allowing for a greater amount of assets available for investment by the Fund or Other Funds, thereby promoting economies of scale, permitting greater safety through greater diversification, and/or making the addition of new portfolios more feasible; and (3) encouraging more insurance companies to offer variable contracts, resulting in increased competition with respect to both variable contract design and pricing, which can be expected to result in more product variation and lower charges. The Fund and the Other Funds will be managed to attempt to achieve their investment objectives and not to favor or disfavor any particular participating insurer or type of insurance product.

9. Applicants see no significant legal impediment to permitting mixed and shared funding. Separate accounts organized as unit investment trusts have historically been employed to accumulate shares of mutual funds which have not been affiliated with the depositor or sponsor of the separate account and Applicants believe that mixed and shared funding will have no

adverse federal income tax consequences.

Applicants' Conditions

Applicants agree that the requested order may be expressly conditioned upon the following:

1. A majority of the Board of Trustees of the Fund, or of any Other Fund, shall consist of persons who are not "interested persons" of the Fund or such Other Fund, as defined by section 2(a)(19) of the Act and the Rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee or trustees, then the operation of this condition shall be suspended: (i) For a period of 45 days, if the vacancy or vacancies may be filled by the Board of Trustees; (ii) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies; or (iii) for such longer period as the Commission may prescribe by order upon application.

2. The Board of the Fund, or of any Other Fund, will monitor for the existence of any material irreconcilable conflict between the interests of the contractowners of all separate accounts investing in the Fund or such Other Fund. An irreconcilable material conflict may arise for a variety of reasons, including: (i) An action by any state insurance regulatory authority; (ii) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (iii) an administrative or judicial decision in any relevant proceeding; (iv) the manner in which the investments of the Fund or such Other Fund are being managed; (v) a difference in voting instructions given by variable annuity contractowners and variable life insurance contractowners; or (vi) a decision by an insurer to disregard the voting instructions of contractowners.

3. Participating insurance companies and the Manager will report any potential or existing conflicts to the Board of Trustees of the Fund, or of any Other Fund. Participating insurance companies and the Manager will be responsible for assisting the Board of the Fund or such Other Fund in carrying out its responsibilities under these conditions, by providing such Board with all information reasonably necessary for it to consider any issues raised. This includes, but is not limited

to, an obligation by each participating insurance company to inform the Board of the Fund or such Other Fund whenever contractowner voting instructions are disregarded. The responsibility to report such information and conflicts and to assist the Board of the Fund or such Other Fund will be a contractual obligation of all insurers investing in the Fund, or such Other Fund under their agreements governing participation therein and such agreements shall provide that such responsibilities will be carried out with a view only to the interests of the contractowners.

4. If it is determined by a majority of the Board of Trustees of the Fund, or of any Other Fund, or a majority of the disinterested trustees thereof, that a material irreconcilable conflict exists, the relevant participating insurance companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (i) Withdrawing the assets allocable to some or all of the separate accounts from the Fund or such Other Fund and reinvesting such assets in a different investment medium (including another Fund, if any) or submitting the question whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contractowners, life insurance contractowners, or variable contractowners of one or more participating insurance companies) that votes in favor of such segregation, or offering to the affected contractowners the option of making such a change; and (ii) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of an insurer's decision to disregard contractowner voting instructions and that decision represents a minority position or would preclude a majority vote, the insurer may be required, at the election of the Fund or such Other Fund, to withdraw its separate account's investment therein, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of an irreconcilable material conflict and to bear the cost of such remedial action shall be a contractual obligation of all participating insurance companies under their agreements governing participation

in the Fund or such Other Fund and these responsibilities will be carried out with a view only to the interests of the contractowners.

For the purposes of this condition (4), a majority of the disinterested members of the Board of the Fund, or of any Other Fund, shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Fund or such Other Fund, or the Manager be required to establish a new funding medium for any variable contract. No participating insurance company shall be required by this condition (4) to establish a new funding medium for any variable contract if any offer to do so has been declined by vote of a majority of contractowners materially affected by the irreconcilable material conflict.

5. The determination of the existence of an irreconcilable material conflict and its implications by the Board of the Fund, or of any Other Fund, shall be made known promptly in writing to all participating insurance companies.

6. Participating insurance companies will provide pass-through voting privileges to all variable contractowners so long as the Commission continues to interpret the Act as requiring pass-through voting privileges for variable contractowners. Accordingly, participating insurance companies will vote shares of the Fund or any Other Fund held in their separate accounts in a manner consistent with timely voting instructions received from contractowners. Each participating insurance company will vote shares of the Fund or any Other Fund held in its separate accounts for which no timely voting instructions from contractowners are received, as well as shares it owns, in the same proportion as those shares for which voting instructions are received. Participating insurance companies shall be responsible for assuring that each of their separate accounts participating in the Fund, or in any Other Fund, calculates voting privileges in a manner consistent with other participating insurance companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in the Fund or such Other Fund shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund or such Other Fund.

7. The Fund or any Other Fund will notify all participating insurance companies that prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. The Fund or any Other Fund shall disclose in

its prospectus that: (1) Its shares may be offered to separate accounts that fund both annuity and life insurance contracts of affiliated and unaffiliated participating insurance companies, (2) due to differences of tax treatment or other considerations, the interests of various contractowners participating in it might at some time be in conflict, and (3) its Board of Trustees will monitor for any material conflicts and determine what action, if any, should be taken.

8. All reports received by the Board of Trustees of the Fund, or of any Other Fund, regarding potential or existing conflicts, and all Board action with respect to determining the existence of a conflict, notifying participating insurance companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board of the Fund or such Other Fund or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

9. If and to the extent Rule 6e-2 and Rule 6e-3(T) are amended, or Rule 6e-3 is adopted, to provide exemptive relief from any provision of the Act or the rules thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in this application, then the Fund or any Other Fund, and/or the participating insurance companies, as appropriate, shall take such steps as may be necessary to comply with Rule 6e-2 and Rule 6e-3(T), as amended, and Rule 6e-3, as adopted, to the extent such rules are applicable.

10. The Fund or any Other Fund will comply with all provisions of the Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of the Fund or such Other Fund), and in particular the Fund or such Other Fund will either provide for annual meetings (except insofar as the Commission may interpret section 16 not to require such meetings) or comply with section 16(c) of the Act (although the Trust is not one of the trusts described in section 16(c) of the Act) as well as with section 16(a) and, if and when applicable, 16(b). Further, the Fund or such Other Fund will act in accordance with the Commission's interpretation of the requirements of section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

11. The participating insurance companies and/or the Manager shall at

least annually submit to the Board of Trustees of the Fund, or of any Other Fund, such reports, materials or data as such Board may reasonably request so that it may fully carry out the obligations imposed upon it by the conditions contained in this application, and said reports, materials and data shall be submitted more frequently if deemed appropriate by such Board. The obligations of the participating insurance companies to provide these reports, materials and data to the Board of Trustees of the Fund, or of any Other Fund, when it so reasonably requests, shall be a contractual obligation of all participating insurance companies under their agreements governing participation in the Fund or such Other Fund.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-15314 Filed 6-29-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25106]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

June 22, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 18, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as

amended, may be granted and/or permitted to become effective.

Connecticut Yankee Atomic Power Company (70-7704)

Connecticut Yankee Atomic Power Company ("Connecticut Yankee"), 107 Selden Street, Berlin Connecticut 06037, a subsidiary company of Northeast Utilities and of New England Electric System, both registered holding companies, has filed a application-declaration under Sections 6(a) and 7 of the Act and Rule 50(a)(5).

By order dated December 24, 1986, (HCAR No. 24280) Connecticut Yankee was authorized to enter into a Remarkable Credit and Letter of Credit Agreement with a syndicate of banks for a term of five years, with up to three one-year renewal options, which established a \$90 million revolving credit facility and a letter of credit facility to guarantee the repayment of commercial paper to be issued by Connecticut Yankee. Connecticut Yankee now proposes to issue notes and commercial paper under a \$90 million Revolving Credit, Bid Line and Letter of Credit Facility Agreement ("Agreement") with a group of banks ("Lenders") for a term of five years, with up to three one-year renewal options to replace the existing borrowing arrangements.

Credit under the Agreement would be available as revolving credit to be evidenced by the issuance of notes ("Revolving Credit Notes"), or as supporting credit in the form of irrevocable letters of credit to guarantee the repayment of commercial paper ("Commercial Paper") to be issued by Connecticut Yankee or the repayment of the bid line loans, to be evidenced by the issuance of notes ("Bid Line Notes"). The aggregate of the principal amount of outstanding Revolving Credit Notes and Bid Line Notes and the face value of outstanding Commercial Paper supported by the letters of credit would not at any one time exceed \$90 million.

The Revolving Credit Notes would bear interest at a rate selected by Connecticut Yankee from among the following options: (1) The London Inter-Bank offered rate plus 0.625%; (2) the average of the Fixed Certificate of Deposit rates plus 0.75%; or (3) a prime based borrowing rate. Bid Line Notes would bear interest at a rate determined by competitive bidding among the Lenders, which would issue letters of credit to support the Bid Line Notes. Individual borrowing under any of the above options would not exceed a six-month period, and may be prepaid in whole or in part without penalty.

Connecticut Yankee also requests an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) for the issuance and sale of its Commercial Paper.

Midwest Resources, Inc., et al. (70-7707)

Midwest Resources, Inc. ("Midwest Resources"), 686 Grand Avenue, P.O. Box 657, Des Moines, Iowa 50303, a newly-formed Iowa Corporation which is not presently subject to the Act, has filed an application pursuant to sections 9(a)(2) and 10 of the Act and Rule 51 thereunder.

Midwest Resources proposes to acquire all of the issued and outstanding shares of common stock of Iowa Public Service Co. ("Iowa Public Service"), a wholly owned public-utility subsidiary of Midwest Energy Company ("Midwest Energy"), and of Iowa Power, Inc. ("Iowa Power"), a wholly owned public-utility subsidiary of Iowa Resources, Inc. ("Iowa Resources"). Both Midwest Energy and Iowa Resources are holding companies exempt from registration under section 3(a)(1) of the Act pursuant to Rule 2.

Midwest Resources will indirectly acquire the Iowa Public Service common stock and the Iowa Power common stock through a merger of Midwest Energy and Iowa Resources pursuant to an Agreement and Plan of Merger dated as of March 15, 1990 (the "Merger Agreement"). The Merger Agreement, described further below, was approved by Midwest Energy and Iowa Resources shareholders at meetings held on May 23, 1990. Midwest Resources was organized by Iowa Resources and Midwest Energy to facilitate the proposed merger, and presently engages in no other business.

Iowa Public Service is engaged in the generation, transmission and distribution of electricity and the distribution of natural gas at retail. Iowa Public Service conducts its public utility business through an electric division ("IPS Electric") and a natural gas division ("Midwest Gas"). IPS Electric serves 156,000 residential, commercial and industrial customers in 228 communities in western and north central Iowa and five communities in southeastern South Dakota. Midwest Gas serves 347,000 residential, commercial and industrial customers in 208 communities in western, southeastern and north and south central Iowa, 38 communities in east central Minnesota, 8 communities in southeastern South Dakota and 3 communities in northeastern Nebraska.

Iowa Power is engaged in the generation, transmission and

distribution of electricity in southwest and central Iowa. Iowa Power's service territory includes rural areas, Des Moines, the largest city in the state, and Council Bluffs, Iowa. As of December 31, 1989, Iowa Power had 250,000 customers, of which approximately 87% were residential customers and 13% were commercial and industrial customers.

As of December 31, 1989, Midwest Energy reported total assets of \$1,103,136,000, of which amount \$1,003,534,000, or 91%, represents the public-utility assets of Iowa Public Service. Iowa Resources reported total assets of \$1,204,169,000, of which amount \$1,086,516,000, or 90.2%, represents the public-utility assets of Iowa Power. Midwest Energy has 75 million authorized shares of common stock, \$5 par value per share, of which 21,580,330 shares are outstanding. Iowa Resources has 60 million authorized shares of common stock, no par value, of which 21,712,725 shares are outstanding.

Pursuant to the Merger Agreement, the holders of Iowa Resources common stock and Midwest Energy common stock will become the holders of Midwest Resources common stock, which will, upon consummation of the merger, be the only outstanding equity securities of Midwest Resources. Midwest Resources will issue 1.080 shares of its common stock for each share of issued and outstanding Midwest Energy common stock, \$5 par value per share. For each issued and outstanding share of Iowa Resources common stock, no par value, Midwest Resources will issue 1.235 shares of its common stock. Dissenting common stock shareholders of Midwest Energy or Iowa Resources who do not want to participate in the stock conversion will be able to turn in their shares for cash. Following the conversion or cashing in of the common stock of Midwest Energy and Iowa Resources, each and every such share of stock will be cancelled. Midwest Resources subsequently will become the parent utility holding company of Iowa Public Service and Iowa Power.

Pursuant to mutual Stock Option Agreements, each dated as of March 15, 1990, Midwest Energy has granted to Iowa Resources, and Iowa Resources has granted to Midwest Energy, the right to acquire under certain circumstances up to 3,885,000 and 3,890,000 shares, respectively, of authorized but unissued common stock of the other company (the "Option") at prices of \$21.25 and \$20.25 per share, respectively. In each case, such prices represent the closing prices of such stock on the New York Stock

Exchange Composite Tape on March 13, 1990. The exercise price is payable, at the election of the holder of the Option, in cash or in shares of its common stock. The Options are exercisable at any time or from time to time, in whole or in part, upon the occurrence of certain events specified in the Stock Option Agreements. In each case, an event which triggers the Options generally involves a stock acquisition, an exchange offer, or a tender offer.

The proposed merger is subject to the approval of the Iowa State Utilities Board. The Department of Justice and the Federal Trade Commission also must consider the proposed merger pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 90-15310 Filed 6-29-90; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review;

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before August 1, 1990. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: William Cline, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office

Building, Washington, DC 20503, Telephone: (202) 395-7340.
Title: 8(a) Annual Update as prescribed by the Small Business Act
Form Nos.: SBA Forms 1450
Frequency: Annually
Description of respondents: 8(a) program participants
Annual Responses: 5,000
Annual Burden Hours: 13,000
Title: Request for Information Concerning Portfolio Financing
Form Nos.: SBA Form 857
Frequency: Biennially
Description of respondents: Small Business Investment Companies
Annual Responses: 2,160
Annual Burden Hours: 2,160
Title: Financial Institution Confirmation Form
Form Nos.: SBA Form 860
Frequency: Biennially
Annual Responses: 1,500
Annual Burden Hours: 750
Title: Questionnaire for Section 503 Development Company
Form Nos.: SBA Form 1301
Frequency: On occasion
Annual Responses: 20
Annual Burden Hours: 40
Title: Questionnaire for company doing business with a Section 503 Development Company
Form Nos.: 1302
Frequency: On occasion
Annual Responses: 160
Annual Burden Hours: 320
William Cline,
Chief, Administrative, Information Branch.
[FR Doc. 90-15248 Filed 6-29-90; 8:45 am]
BILLING CODE 8025-01-M

Tamco Investors (SBIC), Inc. (License No. 05/05-0116); License Surrendered

Notice is hereby given that Tamco Investors (SBIC), Inc., 375 Victoria Road, Youngstown, Ohio 44515, has surrendered its license to operate as a small business investment company under Section 301(c) of the Small Business Investment Act of 1958, as amended (the Act). Tamco Investors (SBIC), Inc. was licensed by the Small Business Administration on June 21, 1977.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on June 18, 1990 and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 25, 1990.
Robert G. Lineberry,
Associate Administrator for Investment.
 [FR Doc. 90-15245 Filed 6-29-90; 8:45 am]
 BILLING CODE 8025-01-M

Alpha Capital Corporation (License No. 01/01-0354); Application for a Small Business Investment Company License

An application for a license to operate a small business investment company under provisions of section 301(c) of the Small Business Investment Act of 1958, as amended, (the Act), (15 U.S.C. 661 et. seq.) has been filed by Alpha Capital Corporation 10 Dorrance Street, Providence, Rhode Island 02903 (Applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1990).

The officers, directors, and sole shareholder of the Applicant are as follows:

Gerald A. Dahl, President, Director and Manager, 672 Namquid Drive, Warwick, Rhode Island 02888.
 Mark E. Dahl, Vice President and Assistant Manager, 325 Crestwood Road, Warwick, Rhode Island 02886.
 Christine Marcus, Treasurer, Director, 110 Seaview Avenue, North Kingstown, Rhode Island 02852.
 Louis A. Regnier, Secretary, Director, 11 Ridge Road, Newport, Rhode Island 02840.

The Applicant, a Rhode Island Corporation, will begin operations with \$1,000,000 paid-in capital and paid-in surplus. The Applicant will conduct its activities primarily in the State of Rhode Island.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owner and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, DC 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Providence, Rhode Island.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,
Associate Administrator for Investment.
 Dated June 20, 1990.
 [FR Doc. 90-15246 Filed 6-29-90; 8:45am]
 BILLING CODE 8025-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket 301-61]

Determination To Terminate Increased Duties on Certain Articles From Brazil

SUMMARY: Pursuant to authority delegated by the President to the United States Trade Representative (USTR) in Proclamation No. 5885 of October 20, 1988, the USTR hereby terminates the application of increased duties on certain imported articles that are the products of Brazil proclaimed in Proclamation No. 5885, and modifies the Harmonized Tariff Schedule of the United States (HTS) accordingly, having determined that such action is in the interest of the United States.

EFFECTIVE DATE: 12:01 a.m., July 2, 1990.

FOR FURTHER INFORMATION CONTACT: Jon Huenemann, Director, Brazil and Southern Cone Affairs, (202) 395-5190, or Emery Simon, Director, Intellectual Property, (202) 395-6864.

SUPPLEMENTARY INFORMATION: On July 21, 1988, the President determined pursuant to section 301 of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2411), that the Government of Brazil failed to provide process and product patent protection for pharmaceutical products and fine chemicals, and that this failure was unreasonable and constituted a burden or restriction on U.S. commerce (53 FR 28177). This failure permitted the unauthorized copying of pharmaceutical products and processes that were invented by U.S. firms. The President directed the USTR to hold public hearings on products of Brazil that were appropriate candidates for increased duties or other import restrictions, and these hearings were held September 8 and 9, 1988.

On October 20, 1988, the President proclaimed increased duties of 100 percent *ad valorem* on certain imported articles that are the products of Brazil, as provided for in the annexes to the Presidential Proclamation of that date (53 FR 41551). The President also proclaimed in part that "the United States Trade Representative is authorized to suspend, modify, or terminate the increased duties imposed

by this Proclamation, upon publication in the Federal Register of his determination that such action is in the interest of the United States."

On June 26, 1990, the Government of Brazil announced that the President of Brazil has decided to seek legislation to provide patent protection for pharmaceutical products and the process of their production. The Brazilian Administration will ensure the presentation of a bill to the Brazilian National Congress for this purpose by March 20, 1991, and will seek its approval and implement such legislation immediately after it comes into force. I have therefore determined that Brazil is taking satisfactory measures to eliminate the practices that were determined by the President to be unreasonable and a burden or restriction on U.S. commerce. I have further determined that it is in the interest of the United States to terminate the application of the increased duties imposed by Proclamation No. 5885, pursuant to the authority granted to me in that Proclamation. Such termination shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m. on the date of publication of this notice in the Federal Register. I will monitor closely the Government of Brazil's efforts to enact such legislation.

The Harmonized Tariff Schedule of the United States is hereby modified accordingly, by striking out subheadings 9903.42.01 through 9903.42.95, inclusive, and their superior text. The modifications to the HTS made by this determination are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m. on the date of publication of this notice in the Federal Register.

This determination shall be published in the Federal Register.

Carla A. Hills,
United States Trade Representative.
 [FR Doc. 90-15340 Filed 6-29-90; 8:45 am]
 BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 88-096]

RIN 2115-AD12

Licensing Alternatives for Operators of Commercial Fishing Industry Vessels

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice of public meetings.

SUMMARY: On December 19, 1989, the Coast Guard published in the *Federal Register* (54 FR 51964) a notice which invited public comments to identify alternatives for licensing operators of commercial fishing industry vessels. The Commercial Fishing Industry Vessel Safety Act (Pub. L. 100-424) requires the Coast Guard to submit to Congress a plan for licensing operators of documented fishing, fish processing and fish tender vessels. This effort is directed solely toward the commercial fishermen, not the vessels upon which they serve. These efforts are intended to improve the overall safety of commercial fishing industry vessels. This notice gives details of public meetings planned to obtain additional comments on these matters.

DATES: The dates of the public meetings are July 11, 18, 26, and 28, August 2, 6, 11, 14, and 15, 1990, as further explained in **SUPPLEMENTARY INFORMATION** below.

ADDRESSES: Public meetings on the proposed rules will be held in Corpus Christi, TX; New Bern, NC; Eureka, CA; Seattle, WA; Portland, ME; New Bedford, MA; and Sitka, Homer, and Kodiak, AK. Meeting sites and times are specified in **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: LCDR Bruce Bruce Pickard, Office of Marine Safety, Security and Environmental Protection (G-MVP-3), room 1210, U.S. Coast Guard Headquarters, Washington, DC 20593-0001, (202) 267-0214.

SUPPLEMENTARY INFORMATION:

Public Meetings

Since publication of the Notice in the *Federal Register* December 19, 1989 (54 FR 51964), the Coast Guard has determined that additional comments are necessary to permit the public to orally present their views on licensing, suggest alternative actions, and provide supportive information for their positions. Submission of written statements is encouraged.

The Coast Guard will hold public meetings on the dates and times at the locations listed below.

The meeting schedule is as follows:

- Corpus Christi, Texas; 6 p.m. to 8 p.m., Wednesday, July 11, 1990, at Corpus Christi State University, room 117, Center for Sciences Building, 6300 Ocean Drive, Corpus Christi, TX; Telephone (512) 994-2333.
- New Bern, North Carolina, 6 p.m. to 8 p.m., Monday, July 16, 1990, at the Sheraton Hotel and Marina, Grand Ballroom, 1 Bicentennial Park, New Bern, NC; Telephone (919) 638-3585.

- Eureka, California; 2 p.m. to 4 p.m., Thursday, July 26, 1990, at the Agricultural Center, 5330 Broadway, Eureka, CA; Telephone (707) 443-8369.
- Seattle, Washington; 6 p.m. to 9 p.m., Saturday, July 28, 1990, at NOAA, Western Regional Center, Building 9, 7600 Sandpoint Way, Seattle, WA; Telephone (206) 526-6160.
- Portland, Maine; 4 p.m. to 6 p.m., Thursday, August 2, 1990, at the Holiday Inn By The Bay, 88 Spring Street, Portland, ME; Telephone (207) 775-2311.
- New Bedford, Massachusetts; 4 p.m. to 6 p.m., Monday, August 6, 1990, at the Whaling Museum, 18 Johnny Cake Hill, New Bedford, MA; Telephone (508) 997-0046.
- Sitka, Alaska; 7 p.m. to 9 p.m., Saturday, August 11, 1990, at the Centennial Building, Maksoutoff Room, 330 Harbor Drive, Sitka, AK; Telephone (907) 747-3225.
- Homer, Alaska; 6 p.m. to 8 p.m., Tuesday, August 14, 1990, at Homer High School, 600 East Fairview, Homer, AK; Telephone (907) 235-8186.
- Kodiak, Alaska; 8 p.m. to 10 p.m., Wednesday, August 15, 1990, at Kodiak High School, 722 Mill Bay Road, Kodiak, AK; Telephone (907) 488-3131, ext. 293.

All interested persons are invited to participate in these meetings. Those wishing to make an oral statement should register at least 2 days before the date of the particular meeting where they intend to present their views. Oral statements by other individuals will be allowed only if time permits. The Coast Guard reserves the right to impose time limits on oral presentations. To register, write or call the Executive Secretary, Marine Safety Council (G-LRA-2/3304) (CGD88-079), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001; telephone (202) 267-1477.

Dated: June 26, 1990.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90-15269 Filed 6-29-90; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-90-29]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before July 23, 1990.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on June 26, 1990.

Deborah E. Swank,

Acting Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 23477.

Petitioner: Experimental Aircraft Association.

Sections of the FAR Affected: 14 CFR 103.1.

Description of Relief Sought: To amend Exemption No. 3784 that allows petitioner's members to operate powered ultralight vehicles at an empty weight of 350 pounds with a maximum fuel capacity of 5 gallons, a maximum power off stall speed of 29 knots, and a maximum air speed of 55 knots. The amendment would increase the empty

weight to 496 pounds, maximum fuel capacity to 10 gallons, maximum power off stall speed to 31 knots, and maximum air speed to 61 knots.

Docket No.: 24427.

Petitioner: United States Ultralight Association.

Sections of the FAR Affected: 14 CFR 103.1.

Description of Relief Sought: To amend Exemption No. 4274, as amended, that allows petitioner's members to operate powered ultralight vehicles at an empty weight of 350 pounds with a maximum fuel capacity of 5 gallons, a maximum power off stall speed of 29 knots, and a maximum air speed of 55 knots. The amendment would increase the empty weight to 496 pounds, maximum fuel capacity to 10 gallons, maximum power off stall speed to 31 knots, and maximum air speed to 61 knots.

Docket No.: 24741.

Petitioner: United Airlines.

Sections of the FAR Affected: 14 CFR part 121, Appendix H.

Description of Relief Sought: To amend Exemption No. 5171 to allow petitioner to utilize as flight instructors former military pilots of high performance aircraft who have not been employed by the petitioner as pilot in command or second in command for 1 year. Exemption No. 5171 limits the petitioner to the use of flight instructors who had been employed by another certificate holder for 1 year.

Docket No.: 25024.

Petitioner: University of Illinois.

Sections of the FAR Affected: 14 CFR part 141, Appendixes A, C, D, F, and H.

Description of Relief Sought: To allow the petitioner's Institute of Aviation to train its students to a performance standard in lieu of meeting minimum flight time requirements.

Docket No.: 26208.

Petitioner: Daniel L. Wilder.

Sections of the FAR Affected: 14 CFR 121.383(c).

Description of Relief Sought: To allow petitioner to serve as a pilot of an aircraft engaged in air carrier operations under Part 121 after his 60th birthday.

Docket No.: 26222.

Petitioner: Airborne Express.

Sections of the FAR Affected: 14 CFR 121.547(c) and 121.583(a).

Description of Relief Sought: To allow petitioner to carry selected candidates for potential employment aboard its aircraft without complying with certain passenger-carrying requirements. The exemption would permit these applicants to be transported on the flight deck of these airplanes without seats

being available for their use in the passenger compartment.

Docket No.: 26226.

Petitioner: Horizon Air.

Sections of the FAR Affected: 14 CFR 121.409(d).

Description of Relief Sought: To allow relief from the provision that requires windshear training to be conducted in a simulator for each type of aircraft that the operator uses that is required to have low-level windshear detection equipment installed.

Docket No.: 26257.

Petitioner: William D. Bunker.

Sections of the FAR Affected: 14 CFR 135.1 and 135.251.

Description of Relief Sought: To allow agricultural pilots operating single-seat agricultural aircraft relief from the requirements for an anti-drug program.

Dispositions of Petitions

Docket No.: 25744.

Petitioner: United States Skyships.

Sections of the FAR Affected: 14 CFR 91.79(b).

Description of Relief Sought/Disposition: To allow petitioner to fly at 500 feet AGL over congested areas and at 300 feet AGL while orbiting a specific target area.

Denial, June 19, 1990, Exemption No. 5199.

Docket No.: 25962.

Petitioner: U.P. Exec Air.

Sections of the FAR Affected: 14 CFR 43.3(g).

Description of Relief Sought/Disposition: To allow petitioner's properly trained pilots to remove and reinstall seats and a stretcher in either of the two aircraft operated by the petitioner (a Cessna 310 and a Cessna 421).

Partial Grant, June 21, 1990, Exemption No. 5200.

Docket No.: 26046.

Petitioner: Jack Davis.

Sections of the FAR Affected: 14 CFR 45.29.

Description of Relief Sought/Disposition: To allow petitioner to complete restoration of its 1965 C-150 E N150TD airplane with 4-inch registration markings instead of the required 12-inch markings.

Denial, June 18, 1990, Exemption No. 5197.

Docket No.: 26106.

Petitioner: Midway Airlines, Inc., dba Midway Commuter.

Sections of the FAR Affected: 14 CFR 135.157(b)(2)(ii).

Description of Relief Sought/Disposition: To allow petitioner to operate Embraer EMB-120 Brasilia

aircraft with cabin oxygen equipment and quantities of oxygen that comply with the similar requirements of §§ 121.329, 121.333, 121.391, and 25.1447 of the FAR.

Grant, June 13, 1990, Exemption No. 5192.

Docket No.: 26120.

Petitioner: United States Department of the Interior, Office of Law Enforcement.

Sections of the FAR Affected: 14 CFR 45.29.

Description of Relief Sought/Disposition: To allow petitioner to utilize a 3-inch-high N-number in lieu of the standard 12-inch-high N-numbers on its new Maule M-6 aircraft.

Grant, June 18, 1990, Exemption No. 5196.

Docket No.: 26122.

Petitioner: American Air Services dba Executive Jet Management.

Sections of the FAR Affected: 14 CFR 91.191(a)(4) and 135.165 (a) and (b).

Description of Relief Sought/Disposition: To allow petitioner to operate certain airplanes equipped with one long-range navigation system and one high-frequency communication system in extended overwater operations.

Grant, June 18, 1990, Exemption No. 5194.

[FR Doc. 90 15304 Filed 6-29-90; 8:45 am]

BILLING CODE 4910-13-M

Aviation Security Advisory Committee Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Aviation Security Advisory Committee Meeting.

SUMMARY: Notice is hereby given of a meeting of the Aviation Security Advisory Committee.

DATES: The meeting will be held July 17, 1990, from 9 a.m. to 5 p.m..

ADDRESSES: The meeting will be held in the MacCracken Room, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Office of Civil Aviation Security, ACS, 800 Independence Avenue, SW., Washington, DC, 20591, telephone 202-267-9863.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Security Advisory Committee to be held July 17,

1990, in the MacCracken Room, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC.

The agenda for the meeting is to review several recommendations from the Report of the President's Commission on Aviation Security and Terrorism for appropriate action. Subcommittee chairs will also provide updates on their subcommittee actions since December 1989. Attendance at the July 17 meeting is open to the public, but limited to space available. Members of the public may address the committee only with the written permission of the chair, which should be arranged in advance. The chair may entertain public comment if, in its judgment, doing so, will not disrupt the orderly progress of the meeting and will not be unfair to any other person. Members of the public are welcome to present written material to the committee at any time.

Persons wishing to present statements or obtain information should contact the Office of Civil Aviation Security, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-267-9863.

Issued in Washington, DC on June 22, 1990.
Monte R. Belger,

Acting Assistant Administrator for Civil Aviation Security.

[FR Doc. 90-15299 Filed 6-29-90; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

[Docket S-858—Amended]

Equity Carriers I, Inc., et al; Application for a Section 804 Waiver To Operate Foreign-Flag Vessels

Equity Carriers I, Inc., Equity Carriers III, Inc. and Asco-Falcon II Shipping Company (Applicants), have pending an application for waiver of section 804 of the Merchant Marine Act, 1936, as amended (Act). Notice of the application was published in the *Federal Register* on February 7, 1990 (55 FR 4302, Docket S-858).

The Applicants, by letter dated June 8, 1990, requested that their application in Docket S-858 be amended to remove the size restriction on the bulk vessels to be included in the waiver.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such application within the meaning of section 804 of the Act and desiring to submit comments concerning the application, must file written comments in triplicate with the Secretary, Maritime

Administration, room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5 p.m. on July 18, 1990.

This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administration will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20-804 (Operating-Differential Subsidies))

Dated: June 27, 1990.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 90-15305 Filed 6-29-90; 8:45 am]

BILLING CODE 9410-81-M

National Highway Traffic Safety Administration

[Docket No. 90-07; Notice No. 01]

Critical Automated Data Reporting Elements; Reopening of Comment Period

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice and request for comment on proposed critical automated data reporting elements (CADRE); reopening of comment period.

SUMMARY: This notice reopens the comment period for a notice and request for comment on Critical Automated Data Reporting Elements (CADRE), published May 1, 1990. The comment period for this notice closed on May 31, 1990. Prior to and subsequent to that date, NHTSA received requests presenting significant arguments to reopen the comment period, with the primary reason cited that States have not had sufficient time to respond to the original notice. It was stated that the modification of traffic records systems to include the proposed CADRE is a significant change and must be thoroughly coordinated with affected government and police agencies. Additionally, the National Association of Governors' Highway Safety Representatives (NAGHSR) in a request for extension or continuation of the CADRE Notice, suggested that only two States had provided them with an official response by May 25, 1990. NAGHSR would like to review all State responses and provide a coordinated response to the Docket. To do this will

require more time. To that end, NHTSA is reopening the comment period for an additional 60 days.

DATES: Comments on this proposal are due no later than August 31, 1990.

ADDRESSES: Written comments should refer to docket number 90-07 and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are 9:30 a.m. to 4:00 p.m.).

FOR FURTHER INFORMATION CONTACT: Mr. Dennis E. Utter, National Center for Statistics and Analysis, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone 202/366-5351.

SUPPLEMENTARY INFORMATION: On May 1, 1990, NHTSA published a notice and request for comment regarding the inclusion of a minimal set of accident data in States' traffic records systems and on their accident report forms. The comment period for that proposal closed on May 31, 1990. However, NHTSA has reopened the comment period for an additional 60 days from the date of publication of this notice. Copies of the original notice are available from the contact identified above.

NHTSA's reason for reopening the comment period is to allow States and interested parties additional time to consider the implications of the CADRE on their traffic records system and provide a complete reply. NHTSA has received more than 25 comments after the comment closing date. Moreover, additional State representatives called NHTSA to request more time be allowed for their response. A comment from NAGHSR, an organization whose members include State highway safety organizations, specified their membership was not given sufficient time to respond to the docket notice. States would need to conduct in-depth reviews involving State data management committees and data user committees. The proposed data elements may require significant changes in State data collection procedures and may impact those procedures for years to come. These committees would require more time to formulate their response and NAGHSR would like to synthesize the State input and provide NHTSA a response involving as many States as possible. By May 25, 1990, only 6 days before the close of the initial notice, only two States had provided NAGHSR with their comments.

NHTSA has been thoroughly analyzing the more than 50 comments by States and other respondents received regarding this notice. In addition, the

agency is continuing to study all possible ramifications these potential changes may have on State records operations. NHTSA now believes more time is needed for States to develop responses and for NAGHSR to correlate those responses into a unified report. The agency is therefore reopening the comment period for this action for another 60 days and is inviting public comment on that data.

In this reopened comment period, it is not necessary for commenters to resubmit views and data that have been expressed in previous comments. The reason for reopening the comment period is to provide more time for well-thought-out responses from all interested parties.

NHTSA still expects to publish the CADRE in its final form by the end of 1990. In order to benefit from comments which interested parties and the public may wish to forward, we invite the submission of comments on this proposal. All comments submitted in response to this notice will be considered by this agency. Following the close of the comment period, NHTSA will publish a notice announcing the completion and availability of the final version of the CADRE. Written comments should be submitted to: NHTSA Docket Section, Room 5109, NASSIF Building, 400 Seventh Street, SW., Washington, DC 20590.

Comments should refer to Docket #90-07, Notice 01.

It is requested, but not required, of interested persons that 10 copies of each comment be submitted. All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these suggestions without regard to the 15 page limit. This limitation is intended to encourage commenters to present their views in a concise fashion.

All comments received before the close of business on the comment closing date listed above will be considered and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will be considered. The agency will continue to file relevant information as it becomes available. It is recommended that interested persons continue to examine the docket for new material. Those persons desiring to be notified upon receipt of their comments by the docket should include a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

George L. Parker,
Associate Administrator, Research and Development.
[FR Doc. 90-15307 Filed 6-29-90; 8:45 am]
BILLING CODE 4910-59-M

SMALL BUSINESS ADMINISTRATION

National Women's Business Council; Meeting

The National Women's Business Council will hold a public hearing in Los Angeles, California on July 10, 1990. The hearing will be held from 10:00 am to 4:00 pm in the Plaza Room at the Century Plaza Hotel, 2025 Avenue of the Stars, Century City, Los Angeles, California. The major focus of the hearing will be to hear testimony and gather information regarding international trade issues, access to credit, and procurement as they affect women in business. Testimony will be received from public and private sector decision-makers and entrepreneurs, professional experts, corporate leaders and representatives of key interest groups and organizations. The hearing will be open to the public. Testimony will be received on a first come, first served basis. Those wishing to testify should contact Helen W. Robbins, Executive Director of the Council, by July 3 at 1441 L Street NW., Room 414, Washington, DC 20416, (202) 653-8080.

Helen W. Robbins,
Executive Director, National Women's Business Council.
[FR Doc. 90-15247 Filed 6-29-90; 8:45 am]
BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register

Vol. 55, No. 127

Monday, July 2, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

INTERSTATE COMMERCE COMMISSION

Commission Voting Conference

TIME AND DATE: 10:00 a.m., Friday, June 29, 1990.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS:

Short Notice of Commission Voting Conference

The Commission voted to hold a conference on short notice. The purpose of the conference is for the Commission to discuss among themselves, and to vote on, the agenda item. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Suspension Case No. 71513

Proposal By Nation's Class I Railroads To Cancel (De-Link) Their Local And Joint Rates And Charges From The Commission's RCAF/RCCR Process

CONTACT PERSON FOR MORE

INFORMATION: A. Dennis Watson, Office of Government and Public Affairs, Telephone: (202) 275-7252.

Noreta R. McGee,
Secretary.

[FR Doc. 90-15429 Filed 6-29-90; 1:03 pm]

BILLING CODE 7035-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:02 p.m. on Tuesday, June 28, 1990, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following matters:

Application of Soy Capital Bank and Trust Company, Decatur, Illinois, an insured state nonmember bank, for the Corporation's consent to merge, under its charter and title, with First Federal Savings and Loan Association of Macon County, Decatur, Illinois, and for consent to establish the sole office of First Federal Savings and Loan Association of Macon County as a branch of Soy Capital Bank and Trust Company and to redesignate that branch as the resultant institution's main office.

Application of A.T.I. Thrift and Loan Association, an operating noninsured industrial bank located at 6263 Hollywood Boulevard, Hollywood, California, for Federal deposit insurance.

Recommendation concerning an administrative enforcement proceeding.

Matters relating to the probable failure of certain insured banks.

Recommendations concerning assistance agreements with depository institutions.

In calling the meeting, the Board determined, on motion of Director T. Timothy Ryan, Jr. (Director of the Office of Thrift Supervision), seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to the public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Federal Deposit Insurance Corporation.

Dated: June 27, 1990.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90-15364 Filed 6-28-90; 10:13 am]

BILLING CODE 6714-01-M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors

TIME AND DATE: 1:30 p.m. (closed portion), 3:30 p.m. (open portion), Tuesday, July 10, 1990.

PLACE: Offices of the Corporation, fourth floor Board Room, 1615 M Street, NW., Washington, DC.

STATUS: The first part of the meeting from 1:30 p.m. to 3:30 p.m. will be closed to the public. The open portion of the meeting will commence at 3:30 p.m. (approximately).

MATTERS TO BE CONSIDERED: (Closed to the public 1:30 p.m. to 3:30 p.m.):

1. President's Report
2. Finance Project the Eastern European Growth Fund
3. Finance Project the Environmental Investment Fund
4. Finance Project in Caribbean Country
5. Amendments to By-Laws
6. Proposed Budget for FY 1992 and Proposed Amendment to Budget for FY 1991
7. Claims Report
8. Finance and Insurance Reports
9. Approval of 1/30/90 Minutes (Closed Portion)

FURTHER MATTERS TO BE CONSIDERED: (Open to the public 3:30 p.m.)

1. Approval of 1/30/90 Minutes (Open Portion)
2. Approval of Kevin R. Callwood as Vice President of Corporate Communications
3. Increase of Direct Investment Fund for FY 1990 in accordance with Section 235(b) of the Foreign Assistance Act
4. Information Reports
5. Reconfirmation of meetings schedule for remainder of 1990

CONTACT PERSON FOR INFORMATION:

Information with regard to the meeting may be obtained from the Secretary of the Corporation on (202) 457-7007.

Dated: June 28, 1990.

Dennis K. Dolan,

OPIC Corporate Secretary.

[FR Doc. 90-15369 Filed 6-28-90; 10:14 am]

BILLING CODE 3210-01-M

Corrections

Federal Register

Vol. 55, No. 127

Monday, July 2, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

Correction

In notice document 90-14120 beginning on page 24916 in the issue of Tuesday, June 19, 1990, make the following correction:

On page 24916, in the third column, in the table, under "Period", the 8th and 12th entries should read "02/01/89-05/31/90".

BILLING CODE 1505-01-D

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2637

RIN 3209-AA03

Post Employment Conflict of Interest: Supplemental 1990 Designation of Certain Executive Branch Senior Employee Positions and Separate Agencies

Correction

In rule document 90-14111 beginning on page 24855 in the issue of Tuesday,

June 19, 1990, make the following corrections:

1. On page 24855, under **SUPPLEMENTARY INFORMATION**, in the 16th line, "verious" should read "version".
2. On pages 24856 and 24857, wherever a bullet (*) appears, it should be replaced by a double asterisk (**) in conformance with footnote 2. This reflects the fact that all Senior Employee positions listed were being so designated for the first time.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-21-AD; Admtd. 39-5616]

Airworthiness Directives; McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F, DC-10-40, DC-10-40F, and KC-10A (Military) Series Airplanes

Correction

In rule document 90-13628 beginning on page 23893 in the issue of Wednesday, June 13, 1990, make the following correction:

§ 39.13 [Corrected]

On page 23894, in § 39.13, in the first column, in the fifth line from the bottom, after "-30F" insert "-40".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 90-10; Notice 1]

RIN 2127-AD36

Federal Motor Vehicle Safety Standard Pneumatic Tires; Bead Unseating Tire Dimensions

Correction

In proposed rule document 90-13954 beginning on page 24280 in the issue of Friday, June 15, 1990, make the following corrections:

On page 24280 in the third column under **DATES**, in the last line "July 16, 1990" should read "30 days after publication of the final rule."

On page 24281 in the third column below the third full paragraph, the words "**49 CFR PART 512**" should appear in lightface normal type and run into the above paragraph.

BILLING CODE 1505-01-D

Registered Federal

**Monday
July 2, 1990**

Part II

Department of the Treasury

Fiscal Service

**Companies Holding Certificates of
Authority as Acceptable Sureties on
Federal Bonds and as Acceptable
Reinsuring Companies; Notice**

4810-35
4-00236

DEPARTMENT OF THE TREASURY

FISCAL SERVICE

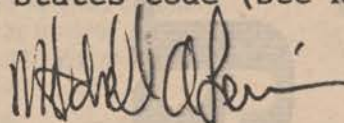
(Dept. Circular 570; 1990 Rev.)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON
FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective July 1, 1990

This Circular is published annually, as of July 1, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of the Circular and other information pertinent to Federal sureties may be obtained from: Surety Bond Branch, Financial Management Service, Department of the Treasury, Washington, DC 20227. Telephone: (202) 287-3921. Interim changes are published in the FEDERAL REGISTER as they occur.

The following companies have complied with the law and the regulations of the Department of the Treasury and are acceptable as sureties and reinsurers on Federal bonds under Sections 9304 to 9308 of Title 31 of the United States Code (See Note a/).



Mitchell A. Levine
Assistant Commissioner, Comptroller
Financial Management Service

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF
THIS CIRCULAR. PLEASE READ THE NOTES CAREFULLY.

ACCELERATION NATIONAL INSURANCE COMPANY. BUSINESS ADDRESS:
475 Metro Place North, P.O. Box 7000, Dublin, OH 43017.
UNDERWRITING LIMITATION b/: \$1,819,000. **SURETY LICENSES c/:** AL,
AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD,
MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:**
Ohio.

Accredited Surety and Casualty Company, Inc. BUSINESS
ADDRESS: 918 South Orange Avenue, Orlando, FL 32806.
UNDERWRITING LIMITATION b/: \$448,000. **SURETY LICENSES c/:**
AL, FL, GA, IN, LA, MS, VA. **INCORPORATED IN:** Florida.

ACSTAR INSURANCE COMPANY. BUSINESS ADDRESS: 233 Main
Street, P.O. Box 2350, New Britain, CT 06050-2350.
UNDERWRITING LIMITATION b/: \$1,267,000. **SURETY LICENSES c/:**
AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA,
KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ,
NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT,
VA, WA, WV, WI, WY. **INCORPORATED IN:** Illinois.

Aetna Casualty and Surety Company (The). BUSINESS ADDRESS:
151 Farmington Avenue, Hartford, CT 06156. **UNDERWRITING**
LIMITATION b/: \$226,409,000. **SURETY LICENSES c/:** AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND,
OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV,
WI, WY. **INCORPORATED IN:** Connecticut.

Aetna Casualty and Surety Company of Illinois.
BUSINESS ADDRESS: 1020 31st Street, Downers Grove, IL 60515.
UNDERWRITING LIMITATION b/: \$49,318,000. **SURETY LICENSES c/:** AL,
AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS,
KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY,
NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV,
WI, WY. **INCORPORATED IN:** Illinois.

Aetna Life and Casualty Company. BUSINESS ADDRESS:
151 Farmington Avenue, Hartford, CT 06156. **UNDERWRITING**
LIMITATION b/: \$383,300,000. **SURETY LICENSES c/:** CT, DC.
INCORPORATED IN: Connecticut.

Affiliated FM Insurance Company. BUSINESS ADDRESS:
P.O. Box 7500, Johnston, RI 02919. **UNDERWRITING**
LIMITATION b/: \$4,625,000. **SURETY LICENSES c/:** AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI,
WY. **INCORPORATED IN:** Rhode Island.

Alaska Pacific Assurance Company. BUSINESS ADDRESS: 2525 "C" Street, SUITE: 400, Anchorage, AK 99503. UNDERWRITING LIMITATION b/: \$2,083,000. SURETY LICENSES c/: AK, AZ, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MI, MS, MO, NE, NM, NY, OH, RI, SD, TX, UT, WV, WI, WY. INCORPORATED IN: Alaska.

Allegheny Mutual Casualty Company. BUSINESS ADDRESS: P.O. Box 1116, Meadville, PA 16335. UNDERWRITING LIMITATION b/: \$150,000. SURETY LICENSES c/: DC, FL, IL, IN, LA, MD, MI, NJ, OH, OK, PA, TN, TX, WI. INCORPORATED IN: Pennsylvania.

Allendale Mutual Insurance Company. BUSINESS ADDRESS: P.O. Box 7500, Johnston, RI 02919. UNDERWRITING LIMITATION b/: \$54,468,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Allied Mutual Insurance Company. BUSINESS ADDRESS: P.O. Box 974, Des Moines, IA 50304. UNDERWRITING LIMITATION b/: \$9,230,000. SURETY LICENSES c/: AZ, AR, CA, CO, DC, ID, IL, IN, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, WY. INCORPORATED IN: Iowa.

Allstate Insurance Company. BUSINESS ADDRESS: Allstate Plaza, Northbrook, IL 60062. UNDERWRITING LIMITATION b/: \$452,448,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

AMCO Insurance Company. BUSINESS ADDRESS: 701 Fifth Avenue, Des Moines, IA 50309. UNDERWRITING LIMITATION b/: \$3,473,000. SURETY LICENSES c/: AZ, CA, CO, ID, IA, KS, MN, MO, NE, NM, ND, OR, SD, UT, WY. INCORPORATED IN: Iowa.

American Automobile Insurance Company. BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. UNDERWRITING LIMITATION b/: \$7,775,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

See Footnotes at end of Circular

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA. BUSINESS ADDRESS: 11222 Quail Roost Dr., Miami, FL 33157. UNDERWRITING LIMITATION b/: \$9,258,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

American Bonding Company. BUSINESS ADDRESS: 350 W. Colorado Boulevard, Suite 370, Pasadena, CA 91105. UNDERWRITING LIMITATION b/: \$559,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, DC, HI, ID, IA, KS, MO, MT, NE, NV, NM, OK, OR, TX, UT, WA. INCORPORATED IN: Nebraska.

American Casualty Company of Reading, Pennsylvania. BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. UNDERWRITING LIMITATION b/: \$17,273,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

American Economy Insurance Company. BUSINESS ADDRESS: 500 North Meridian Street, Indianapolis, IN 46204. UNDERWRITING LIMITATION b/: \$28,295,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NV, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Employers' Insurance Company. BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108. UNDERWRITING LIMITATION b/: \$10,567,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

American Fidelity Company. BUSINESS ADDRESS: P.O. Box 960, Manchester, NH 03107. UNDERWRITING LIMITATION b/: \$1,257,000. SURETY LICENSES c/: AK, CT, DC, IA, ME, MD, MA, MS, NE, NH, ND, OK, RI, SD, UT, VT, WV. INCORPORATED IN: Vermont.

American Fire and Casualty Company. BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. UNDERWRITING LIMITATION b/: \$7,665,000. SURETY LICENSES c/: AL, AR, CO, DC, FL, GA, KS, KY, LA, MD, MS, NC, OK, SC, TN, TX, VA. INCORPORATED IN: Florida.

See Footnotes at end of Circular

American Guarantee and Liability Insurance Company.

BUSINESS ADDRESS: 1400 American Lane, Schaumburg, IL 60196.
UNDERWRITING LIMITATION b/: \$6,199,000. **SURETY LICENSES c/:** AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** New York.

AMERICAN HARDWARE MUTUAL INSURANCE COMPANY. BUSINESS

ADDRESS: P. O. Box 435, Minneapolis, MN 55440. **UNDERWRITING LIMITATION b/:** \$7,845,000. **SURETY LICENSES c/:** AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** Minnesota.

American Home Assurance Company. BUSINESS ADDRESS:

70 Pine Street, New York, NY 10270. **UNDERWRITING LIMITATION b/:** \$63,046,000. **SURETY LICENSES c/:** AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. **INCORPORATED IN:** New York.

American Insurance Company (The). BUSINESS ADDRESS:

777 San Marin Drive, Novato, CA 94998. **UNDERWRITING LIMITATION b/:** \$25,162,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. **INCORPORATED IN:** New Jersey.

American Manufacturers Mutual Insurance Company. BUSINESS

ADDRESS: Long Grove, IL 60049. **UNDERWRITING LIMITATION b/:** \$14,905,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. **INCORPORATED IN:** Illinois.

American Motorists Insurance Company. BUSINESS ADDRESS:

Long Grove, IL 60049. **UNDERWRITING LIMITATION b/:** \$18,795,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** Illinois.

American National Fire Insurance Company. BUSINESS ADDRESS:
580 Walnut Street, Cincinnati, OH 45202. UNDERWRITING
LIMITATION b/: \$1,497,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: New York.

American Re-Insurance Company. BUSINESS ADDRESS:
555 College Road East, P.O. Box 5241, Princeton, NJ 08543.
UNDERWRITING LIMITATION b/: \$61,936,000. SURETY LICENSES c/:
AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA,
KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM,
NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA,
WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Resources Insurance Co., Inc. BUSINESS ADDRESS:
P.O. Box 91149, Mobile, AL 36691. UNDERWRITING LIMITATION b/:
\$344,000. SURETY LICENSES c/: IN, KY, TN. INCORPORATED IN:
Alabama.

AMERICAN ROAD INSURANCE COMPANY (THE). BUSINESS ADDRESS:
P.O. Box 6027, Dearborn, MI 48121-6027. UNDERWRITING
LIMITATION b/: \$49,357,000. SURETY LICENSES c/: AL, AK, AZ,
AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND,
OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Michigan.

American Southern Insurance Company. BUSINESS ADDRESS:
P. O. Box 723030, Atlanta, GA 30339. UNDERWRITING LIMITATION
b/: \$1,727,000. SURETY LICENSES c/: AL, FL, GA, SC.
INCORPORATED IN: Georgia.

American States Insurance Company. BUSINESS ADDRESS:
500 North Meridian Street, Indianapolis, IN 46204. UNDERWRITING
LIMITATION b/: \$70,706,000. SURETY LICENSES c/: AL, AK, AZ,
AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NV, NJ, NM, NC, ND, OH, OK, OR, PA,
RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN:
Indiana.

American Surety and Casualty Company. BUSINESS ADDRESS:
P.O. Box 10239, Jacksonville, FL 32247-0239. UNDERWRITING
LIMITATION b/: \$587,000. SURETY LICENSES c/: FL, GA.
INCORPORATED IN: Florida.

American Surety Company. BUSINESS ADDRESS: 350 W. Colorado
Boulevard, SUITE: 370, Pasadena, CA 91105. UNDERWRITING
LIMITATION b/: \$131,000. SURETY LICENSES c/: CA. INCORPORATED
IN: California.

See Footnotes at end of Circular

Amwest Surety Insurance Company. BUSINESS ADDRESS:
P.O. Box 4500, Woodland Hills, CA 91365-4500. UNDERWRITING
LIMITATION b/: \$2,200,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: California.

Antilles Insurance Company. BUSINESS ADDRESS: P.O. Box
3507, Old San Juan, PR 00904. UNDERWRITING LIMITATION b/:
\$1,224,000. SURETY LICENSES c/: PR. INCORPORATED IN:
Puerto Rico.

ANVIL INSURANCE COMPANY. BUSINESS ADDRESS: 18021 Cowan
Street, Irvine, CA 92714. UNDERWRITING LIMITATION b/: \$939,000.
SURETY LICENSES c/: AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA,
WY. INCORPORATED IN: California.

Argonaut Insurance Company. BUSINESS ADDRESS:
250 Middlefield Road, Menlo Park, CA 94025-3507. UNDERWRITING
LIMITATION b/: \$31,889,000. SURETY LICENSES c/: AL, AK, AZ,
AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY,
LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND,
OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: California.

Arkwright Mutual Insurance Company. BUSINESS ADDRESS:
225 Wyman Street, Waltham, MA 02254-9198. UNDERWRITING
LIMITATION b/: \$54,020,000. SURETY LICENSES c/: AL, AK, AS,
AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS,
KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY,
NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI,
WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Associated Indemnity Corporation. BUSINESS ADDRESS:
777 San Marin Drive, Novato, CA 94998. UNDERWRITING LIMITATION
b/: \$3,364,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO,
CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR,
RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN:
California.

**ATLANTIC CASUALTY AND FIRE INSURANCE COMPANY. BUSINESS
ADDRESS:** P.O. Box 6108, Columbia, SC 29260-6108. UNDERWRITING
LIMITATION b/: \$601,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC,
SD, TN, TX, UT, VT, VA, WV, WI, WY. INCORPORATED IN: South
Carolina.

See Footnotes at end of Circular

Atlantic Employers Insurance Company. BUSINESS ADDRESS:
1600 Arch Street, Philadelphia, PA 19103. UNDERWRITING
LIMITATION b/: \$2,641,000. SURETY LICENSES c/: NJ.
INCORPORATED IN: New Jersey.

Atlantic Mutual Insurance Company. BUSINESS ADDRESS:
Atlantic Building, 45 Wall Street, New York, NY 10005.
UNDERWRITING LIMITATION b/: \$26,868,000. SURETY LICENSES c/:
AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA,
KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM,
NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA,
WA, WV, WI, WY. INCORPORATED IN: New York.

Auto-Owners Insurance Company. BUSINESS ADDRESS:
P.O. Box 30660, Lansing, MI 48909. UNDERWRITING LIMITATION b/:
\$64,851,000. SURETY LICENSES c/: AL, AZ, CO, FL, GA, IL, IN,
IA, KS, KY, MI, MN, MO, NE, NC, ND, OH, SC, SD, TN, TX, VA, WI.
INCORPORATED IN: Michigan.

Automobile Insurance Company of Hartford, Connecticut (The).
BUSINESS ADDRESS: 151 Farmington Avenue, Hartford, CT 06156.
UNDERWRITING LIMITATION b/: \$4,429,000. SURETY LICENSES c/: AK,
AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND,
OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV,
WI, WY. INCORPORATED IN: Connecticut.

Balboa Insurance Company. BUSINESS ADDRESS: 3349 Michelson
Drive, Irvine, CA 92713-9702. UNDERWRITING LIMITATION b/:
\$4,801,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE,
DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN,
MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI,
SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN:
California.

Bankers Multiple Line Insurance Company. BUSINESS ADDRESS:
4810 North Kenneth Avenue, Chicago, IL 60630. UNDERWRITING
LIMITATION b/: \$1,747,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN:
Iowa.

BITUMINOUS CASUALTY CORPORATION. BUSINESS ADDRESS:
320 - 18TH Street, Rock Island, IL 61201. UNDERWRITING
LIMITATION b/: \$6,964,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD,
MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK,
OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Illinois.

See Footnotes at end of Circular

BOND SAFEGUARD INSURANCE COMPANY. BUSINESS ADDRESS:
246 E. Janata Blvd., Lombard, IL 60148. UNDERWRITING LIMITATION
b/: \$248,000. SURETY LICENSES c/: IL, IN, MO. INCORPORATED IN:
Illinois.

Boston Old Colony Insurance Company. BUSINESS ADDRESS:
180 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION
b/: \$2,239,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT,
DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY.
INCORPORATED IN: Massachusetts.

Buckeye Union Insurance Company (The). BUSINESS ADDRESS:
P.O. Box 1499, Columbus, OH 43216. UNDERWRITING LIMITATION b/:
\$41,232,000. SURETY LICENSES c/: DC, FL, IL, IN, KY, MI, NY,
OH, PA, VA, WV. INCORPORATED IN: Ohio.

Capitol Indemnity Corporation. BUSINESS ADDRESS:
P.O. Box 5900, Madison, WI 53705-0900. UNDERWRITING LIMITATION
b/: \$1,829,000. SURETY LICENSES c/: AR, CO, FL, ID, IL, IN,
IA, LA, MI, MN, MO, MT, NV, NM, ND, OK, OR, SD, TX, WI, WY.
INCORPORATED IN: Wisconsin.

Centennial Insurance Company. BUSINESS ADDRESS:
Atlantic Building, 45 Wall Street, New York, NY 10005.
UNDERWRITING LIMITATION b/: \$7,033,000. SURETY LICENSES c/:
AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA,
KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM,
NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA,
VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Central Mutual Insurance Company. BUSINESS ADDRESS:
800 South Washington Street, Van Wert, OH 45891. UNDERWRITING
LIMITATION b/: \$6,036,000. SURETY LICENSES c/: AL, AZ, CO, CT,
DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, NV,
NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV.
INCORPORATED IN: Ohio.

Century Indemnity Company. BUSINESS ADDRESS: 1600 Arch
Street, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/:
\$1,131,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE,
DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN,
MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, PR, RI,
SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN:
Connecticut.

Charter Oak Fire Insurance Company (The). BUSINESS ADDRESS:
One Tower Square, Hartford, CT 06183-6014. UNDERWRITING
LIMITATION b/: \$8,999,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Connecticut.

CHRYSLER INSURANCE COMPANY. BUSINESS ADDRESS:
P.O. Box 5168, Southfield, MI 48086-5168. UNDERWRITING
LIMITATION b/: \$8,735,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Michigan.

CIGNA Insurance Company of Illinois. BUSINESS ADDRESS:
8755 West Higgins Road, Chicago, IL 60631. UNDERWRITING
LIMITATION b/: \$2,434,000. SURETY LICENSES c/: IL.
INCORPORATED IN: Illinois.

CIGNA Insurance Company of the Midwest. BUSINESS ADDRESS:
P.O. BOX 80443, Indianapolis, IN 46280. UNDERWRITING LIMITATION
b/: \$2,095,000. SURETY LICENSES c/: IN. INCORPORATED IN:
Indiana.

CIGNA INSURANCE COMPANY OF OHIO. BUSINESS ADDRESS:
5800 Lombardo Center, Seven Hills, OH 44103. UNDERWRITING
LIMITATION b/: \$601,000. SURETY LICENSES c/: OH.
INCORPORATED IN: Ohio.

CIGNA Insurance Company of Texas. BUSINESS ADDRESS:
600 East Las Colinas Blvd., SUITE: 620, Irving, TX 75039.
UNDERWRITING LIMITATION b/: \$2,025,000. SURETY LICENSES c/:
NM, OK, TX. INCORPORATED IN: Texas.

CIGNA Reinsurance Company. BUSINESS ADDRESS:
One Franklin Plaza, Philadelphia, PA 19102. UNDERWRITING
LIMITATION b/: \$16,653,000. SURETY LICENSES c/: AL, AK, AS,
AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY,
LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC,
ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV,
WI, WY. INCORPORATED IN: Delaware.

CIM Insurance Corporation. BUSINESS ADDRESS: 3044 West
Grand Blvd., Detroit, MI 48202. UNDERWRITING LIMITATION b/:
\$1,778,000. SURETY LICENSES c/: AL, AK, DC, ID, IL, IA, ME, MD,
MI, MN, MS, MO, NV, NH, NM, NY, NC, ND, OH, RI, SC, SD, TN, TX,
VT, WY. INCORPORATED IN: New York.

Cincinnati Insurance Company (The). BUSINESS ADDRESS:
Post Office Box 145496, Cincinnati, OH 45250-5496. UNDERWRITING
LIMITATION b/: \$49,446,000. SURETY LICENSES c/: AL, AK, AZ,
AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND,
OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI,
WY. INCORPORATED IN: Ohio.

CNA CASUALTY OF PUERTO RICO. BUSINESS ADDRESS: Call Box
70128, San Juan, PR 00936. UNDERWRITING LIMITATION b/:
\$1,826,000. SURETY LICENSES c/: PR. INCORPORATED IN:
Puerto Rico.

Commercial Insurance Company of Newark, New Jersey.
BUSINESS ADDRESS: 180 Maiden Lane, New York, NY 10038.
UNDERWRITING LIMITATION b/: \$7,787,000. SURETY LICENSES c/:
AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA,
KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM,
NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA,
WV, WI, WY. INCORPORATED IN: New Jersey.

Commercial Union Insurance Company. BUSINESS ADDRESS:
One Beacon Street, Boston, MA 02108. UNDERWRITING LIMITATION
b/: \$21,268,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO,
CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA,
MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR,
PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY.
INCORPORATED IN: Massachusetts.

Consolidated Surety Insurance Company 1/. BUSINESS ADDRESS:
125 Lincoln Ave., Suite 400, Santa Fe, NM 87501. UNDERWRITING
LIMITATION b/: \$200,000. SURETY LICENSES c/: NM. INCORPORATED
IN: New Mexico.

Continental Casualty Company. BUSINESS ADDRESS: CNA Plaza,
Chicago, IL 60685. UNDERWRITING LIMITATION b/: \$277,995,000.
SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA,
HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT,
NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD,
TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN:
Illinois.

Continental Insurance Company (The). BUSINESS ADDRESS:
180 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION
b/: \$25,407,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA,
CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI,
WY. INCORPORATED IN: New Hampshire.

Continental Reinsurance Corporation. BUSINESS ADDRESS:
180 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION b/:
\$11,516,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, DC, FL,
HI, ID, IL, IN, IA, LA, MI, MS, MT, NV, NJ, NM, NY, NC, ND, OH,
OK, OR, PR, TX, UT, VA, WA, WY. INCORPORATED IN: California.

Continental Western Insurance Company. BUSINESS ADDRESS:
11201 Douglas, Urbandale, IA 50322. UNDERWRITING LIMITATION b/:
\$5,611,000. SURETY LICENSES c/: AZ, AR, CO, ID, IL, IN, IA, KS,
KY, ME, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, SD, UT, WI, WY.
INCORPORATED IN: Iowa.

Contractor's Bonding and Insurance Company 2/. BUSINESS ADDRESS:
1213 Valley Street, P.O. Box 9271, Seattle, WA
98109-0271. UNDERWRITING LIMITATION b/: \$673,000. SURETY
LICENSES c/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL,
IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ,
NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV,
WI, WY. INCORPORATED IN: Washington.

Cooperativa de Seguros Multiples de Puerto Rico. BUSINESS ADDRESS:
G.P.O. Box 3846, San Juan, PR 00936. UNDERWRITING
LIMITATION b/: \$6,703,000. SURETY LICENSES c/: PR.
INCORPORATED IN: Puerto Rico.

Covenant Mutual Insurance Company. BUSINESS ADDRESS:
241 Main Street, Hartford, CT 06106-1862. UNDERWRITING
LIMITATION b/: \$2,319,000. SURETY LICENSES c/: AL, AZ, CA, CO,
CT, FL, GA, ID, IL, IN, IA, ME, MD, MA, MS, MO, NV, NH, NJ, NY,
OH, OR, PA, TX, VT, WA. INCORPORATED IN: Connecticut.

CUMBERLAND CASUALTY & SURETY COMPANY. BUSINESS ADDRESS:
1501 Second Avenue East, Tampa, FL 33605. UNDERWRITING
LIMITATION b/: \$998,000. SURETY LICENSES c/: DC, FL, IN, MD,
TX. INCORPORATED IN: Texas.

Cumis Insurance Society, Inc. BUSINESS ADDRESS:
P.O. Box 1084, Madison, WI 53701. UNDERWRITING LIMITATION b/:
\$8,670,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO,
CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD,
MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK,
OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY.
INCORPORATED IN: Wisconsin.

DAIRYLAND INSURANCE COMPANY. BUSINESS ADDRESS:
1800 North Point Drive, Stevens Point, WI 54481. UNDERWRITING
LIMITATION b/: \$10,307,000. SURETY LICENSES c/: AL, AK, AZ,
AR, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA,
MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, SC,
SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN:
Wisconsin.

DELTA CASUALTY COMPANY. BUSINESS ADDRESS: 4711 North Clark Street, Chicago, IL 60640. **UNDERWRITING LIMITATION b/:** \$957,000. **SURETY LICENSES c/:** IL, IA. **INCORPORATED IN:** Illinois.

DEVELOPERS INSURANCE COMPANY. BUSINESS ADDRESS: 333 Wilshire Avenue, Anaheim, CA 92801. **UNDERWRITING LIMITATION b/:** \$513,000. **SURETY LICENSES c/:** AZ, CA, NV, OR, WA. **INCORPORATED IN:** California.

Empire Fire and Marine Insurance Company. BUSINESS ADDRESS: 1624 Douglas Street, Omaha, NE 68102. **UNDERWRITING LIMITATION b/:** \$4,571,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, PA, SC, SD, TX, UT, VT, WA, WI, WY. **INCORPORATED IN:** Nebraska.

Employers' Fire Insurance Company (The). BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108. **UNDERWRITING LIMITATION b/:** \$4,007,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. **INCORPORATED IN:** Massachusetts.

EMPLOYERS INSURANCE OF WAUSAU A Mutual Company. BUSINESS ADDRESS: P.O. Box 8017, 2000 Westwood Drive, Wausau, WI 54402-8017. **UNDERWRITING LIMITATION b/:** \$9,078,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** Wisconsin.

Employers Mutual Casualty Company. BUSINESS ADDRESS: Post Office Box 712, Des Moines, IA 50303-0712. **UNDERWRITING LIMITATION b/:** \$19,683,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. **INCORPORATED IN:** Iowa.

Employers Reinsurance Corporation. BUSINESS ADDRESS: 5200 Metcalf, P.O. Box 2991, Overland Park, KS 66201. **UNDERWRITING LIMITATION b/:** \$132,861,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** Missouri.

See Footnotes at end of Circular

ERIC Reinsurance Company. BUSINESS ADDRESS: 82 Hopmeadow Street, P.O. Box 129, Simsbury, CT 06070. UNDERWRITING LIMITATION b/: \$9,413,000. SURETY LICENSES c/: CA, CT, DE, NY. INCORPORATED IN: Delaware.

Erie Insurance Company. BUSINESS ADDRESS: 100 Erie Insurance Place, Erie, PA 16530. UNDERWRITING LIMITATION b/: \$770,000. SURETY LICENSES c/: DC, IN, KY, MD, OH, PA, TN, VA, WV. INCORPORATED IN: Pennsylvania.

EVANSTON INSURANCE COMPANY. BUSINESS ADDRESS: Shand, Morahan Plaza, Evanston, IL 60201. UNDERWRITING LIMITATION b/: \$7,537,000. SURETY LICENSES c/: IL. INCORPORATED IN: Illinois.

EXPLORER INSURANCE COMPANY (THE). BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92121-5563. UNDERWRITING LIMITATION b/: \$700,000. SURETY LICENSES c/: AZ, CA. INCORPORATED IN: Arizona.

FAR WEST INSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 4500, Woodland Hills, CA 91365-4500. UNDERWRITING LIMITATION b/: \$215,000. SURETY LICENSES c/: AK, AZ, CA, IN, NV, OR, SD. INCORPORATED IN: California.

Farmers Alliance Mutual Insurance Company. BUSINESS ADDRESS: 1122 North Main Street, McPherson, KS 67460. UNDERWRITING LIMITATION b/: \$5,108,000. SURETY LICENSES c/: AZ, CO, ID, IN, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, TX, WY. INCORPORATED IN: Kansas.

Farmland Mutual Insurance Company. BUSINESS ADDRESS: 1963 Bell Avenue, Des Moines, IA 50315. UNDERWRITING LIMITATION b/: \$3,851,000. SURETY LICENSES c/: AR, CO, IL, IN, IA, KS, KY, MN, MO, MT, NE, NV, ND, OH, OK, SD, TX, UT, WI, WY. INCORPORATED IN: Iowa.

Federal Insurance Company 3/. BUSINESS ADDRESS: P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615. UNDERWRITING LIMITATION b/: \$129,262,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

FEDERATED MUTUAL INSURANCE COMPANY. BUSINESS ADDRESS: 121 East Park Square, Owatonna, MN 55060. UNDERWRITING LIMITATION b/: \$32,332,000. SURETY LICENSES c/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

See Footnotes at end of Circular

Fidelity and Casualty Company of New York (The).

BUSINESS ADDRESS: 180 Maiden Lane, New York, NY 10038.
UNDERWRITING LIMITATION b/: \$21,839,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** New Hampshire.

Fidelity and Deposit Company. **BUSINESS ADDRESS:** Charles and Lexington Streets, Baltimore, MD 21203. **UNDERWRITING LIMITATION b/:** \$442,000. **SURETY LICENSES c/:** IA, KS, MD, MO, TX, VA. **INCORPORATED IN:** Maryland.

Fidelity and Deposit Company of Maryland. **BUSINESS ADDRESS:** Charles and Lexington Streets, Baltimore, MD 21203. **UNDERWRITING LIMITATION b/:** \$21,605,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. **INCORPORATED IN:** Maryland.

FIDELITY AND GUARANTY INSURANCE COMPANY. **BUSINESS ADDRESS:** P.O. Box 1138, 100 Light Street, Baltimore, MD 21203. **UNDERWRITING LIMITATION b/:** \$1,324,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** Iowa.

Fidelity and Guaranty Insurance Underwriters, Inc. **BUSINESS ADDRESS:** P.O. Box 1138, 100 Light Street, Baltimore, MD 21203. **UNDERWRITING LIMITATION b/:** \$4,948,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** Ohio.

Fireman's Fund Insurance Company. **BUSINESS ADDRESS:** 777 San Marin Drive, Novato, CA 94998. **UNDERWRITING LIMITATION b/:** \$128,983,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. **INCORPORATED IN:** California.

Firemen's Insurance Company of Newark, New Jersey. **BUSINESS ADDRESS:** 180 Maiden Lane, New York, NY 10038. **UNDERWRITING LIMITATION b/:** \$46,505,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** New Jersey.

See Footnotes at end of Circular

First Financial Insurance Company. BUSINESS ADDRESS:
238 Smith School Road, Burlington, NC 27215. UNDERWRITING
LIMITATION b/: \$881,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA,
CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN,
MS, MO, MT, NE, NV, NM, ND, OH, OR, RI, SD, TN, TX, UT, VA, WA,
WV, WI, WY. INCORPORATED IN: Illinois.

First Insurance Company of Hawaii, Ltd. BUSINESS ADDRESS:
Post Office Box 2866, Honolulu, HI 96803. UNDERWRITING
LIMITATION b/: \$5,847,000. SURETY LICENSES c/: GU, HI.
INCORPORATED IN: Hawaii.

First National Insurance Company of America. BUSINESS
ADDRESS: SAFECO Plaza, Seattle, WA 98185. UNDERWRITING
LIMITATION b/: \$3,702,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA,
MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN:
Washington.

Fritz Insurance Company 1/

FRONTIER INSURANCE COMPANY. BUSINESS ADDRESS: 196 Broadway,
Monticello, NY 12701. UNDERWRITING LIMITATION b/: \$1,881,000.
SURETY LICENSES c/: AZ, CO, DE, DC, FL, ID, IA, KY, MD, MS, MT,
NJ, NM, NY, OH, PA, SD, TX, VT, VA. INCORPORATED IN: New York.

GENERAL ACCIDENT INSURANCE COMPANY (PUERTO RICO) LIMITED.
BUSINESS ADDRESS: G.P.O. Box 3786, SAN JUAN, PR 00936.
UNDERWRITING LIMITATION b/: \$2,154,000. SURETY LICENSES c/: PR,
VI. INCORPORATED IN: Puerto Rico.

GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA. BUSINESS
ADDRESS: 436 Walnut Street, Philadelphia, PA 19105-1109.
UNDERWRITING LIMITATION b/: \$127,085,000. SURETY LICENSES c/:
AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY,
LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND,
OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI,
WY. INCORPORATED IN: Pennsylvania.

General Insurance Company of America. BUSINESS ADDRESS:
SAFECO Plaza, Seattle, WA 98185. UNDERWRITING LIMITATION b/:
\$38,342,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE,
DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY.
INCORPORATED IN: Washington.

General Reinsurance Corporation. BUSINESS ADDRESS:

695 East Main Street, P.O. Box 10350, Stamford, CT 06904-2350.
UNDERWRITING LIMITATION b/: \$256,494,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Glens Falls Insurance Company (The). BUSINESS ADDRESS:

180 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION b/: \$2,461,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Global Surety & Insurance Co. BUSINESS ADDRESS: 160 Kiewit

Plaza, Omaha, NE 68131. UNDERWRITING LIMITATION b/: \$3,175,000. SURETY LICENSES c/: AZ, CA, CO, MT, NE, SD. INCORPORATED IN: NEBRASKA.

Globe Indemnity Company. BUSINESS ADDRESS: 9300 Arrowpoint

Blvd., Charlotte, NC 28217-5599. UNDERWRITING LIMITATION b/: \$12,468,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Grain Dealers Mutual Insurance Company. BUSINESS ADDRESS:

Post Office Box 1747, Indianapolis, IN 46206. UNDERWRITING LIMITATION b/: \$3,944,000. SURETY LICENSES c/: AZ, AR, CA, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NV, NM, NC, OH, OK, OR, SD, TN, TX, VA, WA, WI, WY. INCORPORATED IN: Indiana.

GRAMERCY INSURANCE COMPANY. BUSINESS ADDRESS: 11111 Katy

Freeway, SUITE: 1000, Houston, TX 77079. UNDERWRITING LIMITATION b/: \$201,000. SURETY LICENSES c/: DE, LA, MD, NM, TX. INCORPORATED IN: Texas.

Granite State Insurance Company. BUSINESS ADDRESS:

P. O. Box 960, Manchester, NH 03107. UNDERWRITING LIMITATION b/: \$1,137,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Great American Insurance Company. BUSINESS ADDRESS:
580 Walnut Street, Cincinnati, OH 45202. UNDERWRITING LIMITATION
b/: \$51,549,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT,
DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN:
Ohio.

Great Northern Insurance Company. BUSINESS ADDRESS:
P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615.
UNDERWRITING LIMITATION b/: \$5,600,000. SURETY LICENSES c/: AL,
AK, AZ, AR, CO, DC, FL, GA, HI, IL, IN, IA, KS, KY, LA, ME, MD,
MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR,
PA, RI, SC, SD, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN:
Minnesota.

Greater New York Mutual Insurance Company. BUSINESS
ADDRESS: 215 Lexington Avenue, New York, NY 10016. UNDERWRITING
LIMITATION b/: \$9,046,000. SURETY LICENSES c/: AL, AZ, CA, CO,
CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN,
MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR,
RI, SC, SD, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New
York.

Gulf Insurance Company. BUSINESS ADDRESS: P.O. Box 1771,
Dallas, TX 75221. UNDERWRITING LIMITATION b/: \$12,777,000.
SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA,
HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT,
NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN,
TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Hamilton Mutual Insurance Company of Cincinnati, Ohio (The).
BUSINESS ADDRESS: 1520 Madison Road, Cincinnati, OH 45206.
UNDERWRITING LIMITATION b/: \$841,000. SURETY LICENSES c/: IN, KY,
MI, OH. INCORPORATED IN: Ohio.

Hanover Insurance Company (The). BUSINESS ADDRESS:
100 North Parkway, Worcester, MA 01605. UNDERWRITING LIMITATION
b/: \$37,451,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT,
DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN:
New Hampshire.

HARCO NATIONAL INSURANCE COMPANY. BUSINESS ADDRESS:
P.O. Box 68309, Schaumburg, IL 60168-0309. UNDERWRITING
LIMITATION b/: \$2,677,000. SURETY LICENSES c/: AL, AK, AZ,
AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC,
ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV,
WI, WY. INCORPORATED IN: New York.

See Footnotes at end of Circular

Harleysville Mutual Insurance Company. BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, PA 19438. UNDERWRITING LIMITATION b/: \$21,519,000. SURETY LICENSES c/: CA, CO, DE, DC, GA, IL, IN, IA, KS, MD, MI, MN, MS, MO, NJ, NM, NC, OH, PA, SC, TN, TX, UT, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Hartford Accident and Indemnity Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: \$33,795,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Casualty Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: \$15,257,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: \$154,488,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Connecticut. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: \$1,732,000. SURETY LICENSES c/: AL, CT, IN, MO, NE, NJ, PA, RI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: \$5,136,000. SURETY LICENSES c/: IL, PA. INCORPORATED IN: Illinois.

Hartford Insurance Company of the Midwest. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: \$2,022,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, CT, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MT, NE, NH, NJ, NM, NY, ND, OK, OR, PA, SC, SD, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/: \$1,644,000. SURETY LICENSES c/: CT, FL, GA, LA, PA. INCORPORATED IN: Florida.

See Footnotes at end of Circular

Hartford Underwriters Insurance Company. BUSINESS ADDRESS:
Hartford Plaza, Hartford, CT 06115. UNDERWRITING LIMITATION b/:
\$12,499,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT,
DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN:
Connecticut.

Highlands Insurance Company. BUSINESS ADDRESS:
600 Jefferson Street, Houston, TX 77002-7392. UNDERWRITING
LIMITATION b/: \$21,114,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI,
WY. INCORPORATED IN: Texas.

Highlands Underwriters Insurance Company. BUSINESS ADDRESS:
600 Jefferson Street, Houston, TX 77002-7392. UNDERWRITING
LIMITATION b/: \$1,361,000. SURETY LICENSES c/: AL, AZ, AR, CA,
FL, GA, LA, MS, NM, OK, TX. INCORPORATED IN: Texas.

Home Indemnity Company (The). BUSINESS ADDRESS: 59 Maiden
Lane, New York, NY 10038. UNDERWRITING LIMITATION b/:
\$7,609,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE,
DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN,
MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI,
SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New
Hampshire.

Home Insurance Company (The). BUSINESS ADDRESS: 59 Maiden
Lane, New York, NY 10038. UNDERWRITING LIMITATION b/:
\$50,298,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE,
DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN,
MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR,
RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN:
New Hampshire.

Houston General Insurance Company. BUSINESS ADDRESS:
P.O. Box 2932, Fort Worth, TX 76113-2932. UNDERWRITING
LIMITATION b/: \$2,742,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MS,
MO, MT, NV, NM, NY, ND, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA,
WY. INCORPORATED IN: Texas.

Illinois National Insurance Company. BUSINESS ADDRESS:
3201 West White Oaks Drive, Springfield, IL 62703. UNDERWRITING
LIMITATION b/: \$2,146,000. SURETY LICENSES c/: AK, IL, IN, IA,
KY, MD, MO, MT, NE, NH, NM, NY, ND, OH, RI, SD, TX, UT, VT, WV.
INCORPORATED IN: Illinois.

See Footnotes at end of Circular

Indemnity Company of California. BUSINESS ADDRESS: 333 Wilshire Avenue, Anaheim, CA 92801. UNDERWRITING LIMITATION b/: \$654,000. SURETY LICENSES c/: AZ, CA, NV, OR, WA. INCORPORATED IN: California.

Indemnity Insurance Company of North America. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/: \$14,083,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Indiana Lumbermens Mutual Insurance Company. BUSINESS ADDRESS: P.O. BOX 68600, Indianapolis, IN 46268-1168. UNDERWRITING LIMITATION b/: \$1,904,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Inland Insurance Company. BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. UNDERWRITING LIMITATION b/: \$2,714,000. SURETY LICENSES c/: AZ, CO, IA, KS, MN, MT, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

Insurance Company of North America. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/: \$68,309,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the State of Pennsylvania. BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. UNDERWRITING LIMITATION b/: \$20,678,000. SURETY LICENSES c/: AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West. BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92138-5563. UNDERWRITING LIMITATION b/: \$6,242,000. SURETY LICENSES c/: AZ, CA, CO, ID, MT, NV, NM, OK, OR, TX, UT, WA. INCORPORATED IN: California.

Integon Indemnity Corporation. BUSINESS ADDRESS: P.O. Box 3199, Winston-Salem, NC 27152. UNDERWRITING LIMITATION b/: \$1,006,000. SURETY LICENSES c/: AL, AK, AZ, AR, FL, GA, ID, IN, IA, KS, KY, LA, MD, MS, MO, NE, NV, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV. INCORPORATED IN: North Carolina.

See Footnotes at end of Circular

Intercargo Insurance Company 4/. BUSINESS ADDRESS:
1501 Woodfield Road, SUITE: 204 South, Schaumburg, IL 60173.
UNDERWRITING LIMITATION b/: \$937,000. SURETY LICENSES c/: AZ,
CO, FL, GA, IL, IN, MD, MA, MI, MO, NM, NY, OR, TN, TX, VA, WI.
INCORPORATED IN: Illinois.

International Cargo and Surety Insurance Company 4/

International Fidelity Insurance Company. BUSINESS ADDRESS:
24 Commerce Street, SUITE: 333, Newark, NJ 07102. UNDERWRITING
LIMITATION b/: \$1,410,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA,
MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
PR, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: New
Jersey.

ISLAND INSURANCE COMPANY, LIMITED. BUSINESS ADDRESS:
P.O. Box 1520, Honolulu, HI 96806. UNDERWRITING LIMITATION b/:
\$5,350,000. SURETY LICENSES c/: HI. INCORPORATED IN: Hawaii.

ITT Lyndon Property Insurance Company. BUSINESS ADDRESS:
12555 Manchester Road, St. Louis, MO 63131. UNDERWRITING
LIMITATION b/: \$7,749,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD,
MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED
IN: Missouri.

John Deere Insurance Company. BUSINESS ADDRESS: 34th Avenue
and 80th Street, Moline, IL 61265. UNDERWRITING LIMITATION b/:
\$7,995,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE,
DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN,
MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI,
SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN:
Illinois.

Kansas Bankers Surety Company (The). BUSINESS ADDRESS:
P.O. Box 1654, Topeka, KS 66601. UNDERWRITING LIMITATION b/:
\$1,162,000. SURETY LICENSES c/: CO, IL, IA, KS, MN, MO, NE, OK,
SD, WI, WY. INCORPORATED IN: Kansas.

Kansas City Fire and Marine Insurance Company. BUSINESS
ADDRESS: 180 Maiden Lane, New York, NY 10038. UNDERWRITING
LIMITATION b/: \$1,563,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD,
MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK,
OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Missouri.

See Footnotes at end of Circular

Kentucky Central Insurance Company. BUSINESS ADDRESS:
Kincaid Towers, Lexington, KY 40507. UNDERWRITING LIMITATION b/:
\$1,394,000. SURETY LICENSES c/: AL, GA, IN, KS, KY, MD, MS, MO,
NM, OH, TN, UT, VA, WV. INCORPORATED IN: Kentucky.

Lawyers Surety Corporation. BUSINESS ADDRESS:
P.O.Box 569480, Dallas, TX 75356-9480. UNDERWRITING LIMITATION
b/: \$534,000. SURETY LICENSES c/: AL, AR, CA, DC, FL, GA, KY, MS,
NC, OK, SC, TN, TX. INCORPORATED IN: Texas.

Liberty Mutual Insurance Company. BUSINESS ADDRESS:
175 Berkeley Street, Boston, MA 02117. UNDERWRITING LIMITATION
b/: \$179,520,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT,
DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED
IN: Massachusetts.

Lumbermens Mutual Casualty Company. BUSINESS ADDRESS:
Long Grove, IL 60049. UNDERWRITING LIMITATION b/: \$151,782,000.
SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA,
HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT,
NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN,
TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Massachusetts Bay Insurance Company. BUSINESS ADDRESS:
100 North Parkway, Worcester, MA 01605. UNDERWRITING LIMITATION
b/: \$1,154,000. SURETY LICENSES c/: AL, AR, CA, CO, CT, DC, FL,
GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH,
NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WA, WV, WI.
INCORPORATED IN: Massachusetts.

MCA Insurance Company 5/. BUSINESS ADDRESS: 484 Central
Avenue, Newark, NJ 07107. UNDERWRITING LIMITATION b/:
\$2,463,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE,
DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN,
MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI,
SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN:
Oklahoma.

Merchants Bonding Company (Mutual). BUSINESS ADDRESS:
2100 Grand Avenue, Des Moines, IA 50312. UNDERWRITING LIMITATION
b/: \$687,000. SURETY LICENSES c/: AZ, CA, CO, FL, ID, IL, IA, KS,
LA, MI, MN, MO, MT, NE, NV, NM, ND, OK, PA, SD, TX, UT, WA.
INCORPORATED IN: Iowa.

MIC Property and Casualty Insurance Corporation. BUSINESS
ADDRESS: 3044 West Grand Blvd., Detroit, MI 48202. UNDERWRITING
LIMITATION b/: \$4,133,000. SURETY LICENSES c/: AK, AZ, AR, CO,
CT, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS,
MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX,
UT, VA, WA, WV, WI. INCORPORATED IN: Michigan.

See Footnotes at end of Circular

Michigan Millers Mutual Insurance Company. BUSINESS ADDRESS: P.O. Box 30060, Lansing, MI 48909. UNDERWRITING LIMITATION b/: \$6,907,000. SURETY LICENSES c/: AZ, AR, CA, CO, DC, FL, ID, IN, KS, KY, MI, MO, NE, NJ, NY, NC, OH, OK, PA, TX, UT, VA, WA. INCORPORATED IN: Michigan.

Michigan Mutual Insurance Company. BUSINESS ADDRESS: P.O. Box 5110, Southfield, MI 48086-5110. UNDERWRITING LIMITATION b/: \$15,512,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Mid-Century Insurance Company. BUSINESS ADDRESS: P.O. Box 2478, Terminal Annex, Los Angeles, CA 90051. UNDERWRITING LIMITATION b/: \$2,372,000. SURETY LICENSES c/: AZ, AR, CA, CO, ID, IL, IN, IA, KS, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI, WY. INCORPORATED IN: California.

MID-CONTINENT CASUALTY COMPANY. BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. UNDERWRITING LIMITATION b/: \$2,881,000. SURETY LICENSES c/: AL, AZ, AR, CO, IL, IA, KS, MN, MS, MO, MT, NE, NM, OK, TX, UT, WA, WY. INCORPORATED IN: Oklahoma.

Millers Mutual Fire Insurance Company of Texas (The). BUSINESS ADDRESS: P.O. Box 2269, Fort Worth, TX 76113. UNDERWRITING LIMITATION b/: \$4,998,000. SURETY LICENSES c/: CO, DC, ID, IL, IN, IA, LA, MI, NM, OK, OR, PA, TX, WY. INCORPORATED IN: Texas.

Millers' Mutual Insurance Association of Illinois. BUSINESS ADDRESS: 111 East Fourth Street, Alton, IL 62002. UNDERWRITING LIMITATION b/: \$4,862,000. SURETY LICENSES c/: AL, AR, CO, DC, GA, IL, IN, IA, KS, LA, MN, MS, MO, MT, NE, NC, ND, OH, OK, SD, TN, WI. INCORPORATED IN: Illinois.

Minnesota Trust Company of Austin. BUSINESS ADDRESS: 107 West Oakland Avenue, P.O. Box 463, Austin, MN 55912. UNDERWRITING LIMITATION b/: \$130,000. SURETY LICENSES c/: MN, MT, ND. INCORPORATED IN: Minnesota.

MOTORS INSURANCE CORPORATION. BUSINESS ADDRESS: 3044 West Grand Boulevard, Detroit, MI 48202. UNDERWRITING LIMITATION b/: \$73,606,000. SURETY LICENSES c/: AL, AK, AZ, AR, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes at end of Circular

Munich American Reinsurance Company. BUSINESS ADDRESS: 560 Lexington Avenue, New York, NY 10022. UNDERWRITING LIMITATION b/: \$23,315,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MA, MI, MS, MT, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: New York.

National American Insurance Company. BUSINESS ADDRESS: 1008 Manvel Avenue, Chandler, OK 74834. UNDERWRITING LIMITATION b/: \$1,678,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National-Ben Franklin Insurance Company of Illinois. BUSINESS ADDRESS: 200 South Wacker Drive, Chicago, IL 60606. UNDERWRITING LIMITATION b/: \$14,092,000. SURETY LICENSES c/: DC, IL, IN, IA, KY, MI, MN, NY, NC, ND, WI. INCORPORATED IN: Illinois.

National Fire Insurance Company of Hartford. BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. UNDERWRITING LIMITATION b/: \$31,932,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

National Grange Mutual Insurance Company. BUSINESS ADDRESS: 55 West Street, Keene, NH 03431. UNDERWRITING LIMITATION b/: \$7,158,000. SURETY LICENSES c/: CT, DE, DC, ME, MD, MA, MI, NH, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI. INCORPORATED IN: New Hampshire.

National Indemnity Company. BUSINESS ADDRESS: 3024 Harney Street, Omaha, NE 68131-3580. UNDERWRITING LIMITATION b/: \$240,845,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

NATIONAL REINSURANCE CORPORATION. BUSINESS ADDRESS: 777 Long Ridge Road, Stamford, CT 06904-2167. UNDERWRITING LIMITATION b/: \$18,963,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, DE, DC, FL, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, PR, RI, SC, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

See Footnotes at end of Circular

National Surety Corporation. BUSINESS ADDRESS:

200 West Monroe Street, Chicago, IL 60606. UNDERWRITING
LIMITATION b/: \$9,821,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK,
OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Illinois.

National Union Fire Insurance Company of Pittsburgh, PA.

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270.
UNDERWRITING LIMITATION b/: \$83,567,000. SURETY LICENSES c/:
AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA,
KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NV, NH, NJ, NM, NY,
NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI,
WA, WV, WY. INCORPORATED IN: Pennsylvania.

Nationwide Mutual Insurance Company. BUSINESS ADDRESS:

One Nationwide Plaza, Columbus, OH 43216. UNDERWRITING
LIMITATION b/: \$252,950,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK,
OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY.
INCORPORATED IN: Ohio.

Netherlands Insurance Company (The). BUSINESS ADDRESS:

62 Maple Avenue, Keene, NH 03431. UNDERWRITING LIMITATION b/:
\$1,375,000. SURETY LICENSES c/: AZ, CA, CT, DC, GA, ID, IN, IA,
KY, ME, MD, MI, NV, NH, NJ, NY, NC, OH, RI, SC, UT, VT, VA, WA,
WI. INCORPORATED IN: New Hampshire.

New Hampshire Insurance Company. BUSINESS ADDRESS:

P.O. Box 960, Manchester, NH 03107. UNDERWRITING LIMITATION b/:
\$33,174,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT,
DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA,
MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR,
PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY.
INCORPORATED IN: New Hampshire.

New South Insurance Company. BUSINESS ADDRESS:

P.O. Box 3199, Winston-Salem, NC 27152. UNDERWRITING LIMITATION
b/: \$665,000. SURETY LICENSES c/: IN, MA, MS, NC, ND, OH, PA, RI,
SD, TX, VA, WA, WV. INCORPORATED IN: North Carolina.

Newark Insurance Company. BUSINESS ADDRESS: 9300 Arrowpoint

Blvd., Charlotte, NC 28217-5599. UNDERWRITING LIMITATION b/:
\$3,104,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE,
DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY.
INCORPORATED IN: New Jersey.

See Footnotes at end of Circular

North American Reinsurance Corporation. BUSINESS ADDRESS:
237 Park Avenue, New York, NY 10017. UNDERWRITING LIMITATION
b/: \$22,553,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO,
CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA,
MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR,
PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED
IN: New York.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY. BUSINESS
ADDRESS: 650 Elm Street, 6th Floor, Manchester, NH 03101-2596.
UNDERWRITING LIMITATION b/: \$2,796,000. SURETY LICENSES c/: AL,
AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY,
LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC,
ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: New Hampshire.

North Star Reinsurance Corporation. BUSINESS ADDRESS:
Morris Corporate Center I, 300 Interpace Parkway, Parsippany, NJ
07054. UNDERWRITING LIMITATION b/: \$8,141,000. SURETY LICENSES
c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA,
KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY,
ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV,
WI, WY. INCORPORATED IN: Delaware.

Northbrook Property and Casualty Insurance Company.
BUSINESS ADDRESS: Allstate Plaza, Northbrook, IL 60062.
UNDERWRITING LIMITATION b/: \$8,236,000. SURETY LICENSES c/:
AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN,
IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM,
NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA,
WA, WV, WI, WY. INCORPORATED IN: Illinois.

Northern Assurance Company of America (The). BUSINESS
ADDRESS: One Beacon Street, Boston, MA 02108. UNDERWRITING
LIMITATION b/: \$11,413,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND,
OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI,
WY. INCORPORATED IN: Vermont.

NORTHWESTERN PACIFIC INDEMNITY COMPANY. BUSINESS ADDRESS:
P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615.
UNDERWRITING LIMITATION b/: \$1,701,000. SURETY LICENSES c/: CA,
OK, OR, TX, WA. INCORPORATED IN: Oregon.

Oceanic Insurance and Surety Company. BUSINESS ADDRESS:
1501 Woodfield Road, SUITE: 204S, Schaumburg, IL 60173.
UNDERWRITING LIMITATION b/: \$256,000. SURETY LICENSES c/: NM.
INCORPORATED IN: New Mexico.

See Footnotes at end of Circular

Ohio Casualty Insurance Company (The). BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. UNDERWRITING LIMITATION b/: \$53,156,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Farmers Insurance Company. BUSINESS ADDRESS: Westfield Center, OH 44251. UNDERWRITING LIMITATION b/: \$28,015,000. SURETY LICENSES c/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Oklahoma Surety Company. BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. UNDERWRITING LIMITATION b/: \$576,000. SURETY LICENSES c/: KS, OK, TX. INCORPORATED IN: Oklahoma.

Old Republic Insurance Company. BUSINESS ADDRESS: P.O. Box 789, Greensburg, PA 15601. UNDERWRITING LIMITATION b/: \$15,987,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company. BUSINESS ADDRESS: P.O. Box 1635, Milwaukee, WI 53201. UNDERWRITING LIMITATION b/: \$1,441,000. SURETY LICENSES c/: DC, GA, IL, IN, IA, MD, OR, PA, UT, VA, WI. INCORPORATED IN: Wisconsin.

Omaha Property and Casualty Insurance Company. BUSINESS ADDRESS: 3102 Farnam Street, Omaha, NE 68131. UNDERWRITING LIMITATION b/: \$1,877,000. SURETY LICENSES c/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Delaware.

Pacific Employers Insurance Company. BUSINESS ADDRESS: 1600 Arch Street, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/: \$15,338,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

Pacific Indemnity Company. BUSINESS ADDRESS: P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615. UNDERWRITING LIMITATION b/: \$28,878,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Pacific Insurance Company, Limited. BUSINESS ADDRESS: P.O. Box 1140, Honolulu, HI 96807. UNDERWRITING LIMITATION b/: \$4,433,000. SURETY LICENSES c/: HI. INCORPORATED IN: Hawaii.

PACIFIC STATES CASUALTY COMPANY. BUSINESS ADDRESS: 4021 Rosewood Avenue, 3rd Floor, Los Angeles, CA 90004-2932. UNDERWRITING LIMITATION b/: \$1,952,000. SURETY LICENSES c/: AZ, CA. INCORPORATED IN: California.

Peerless Insurance Company. BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. UNDERWRITING LIMITATION b/: \$9,618,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Pekin Insurance Company. BUSINESS ADDRESS: 2505 Court Street, Pekin, IL 61558. UNDERWRITING LIMITATION b/: \$1,796,000. SURETY LICENSES c/: IL, IN, IA, WI. INCORPORATED IN: Illinois.

Pennsylvania Manufacturers' Association Insurance Company. BUSINESS ADDRESS: 925 Chestnut Street, Philadelphia, PA 19107. UNDERWRITING LIMITATION b/: \$17,594,000. SURETY LICENSES c/: AK, AZ, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MA, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pennsylvania Millers Mutual Insurance Company. BUSINESS ADDRESS: 15 Public Square, Wilkes-Barre, PA 18773-0016. UNDERWRITING LIMITATION b/: \$3,949,000. SURETY LICENSES c/: CT, DC, FL, GA, ID, IN, KS, KY, ME, MD, MA, MS, MO, NH, NJ, NY, NC, ND, PA, RI, SC, TN, UT, VT, VA, WA. INCORPORATED IN: Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company. BUSINESS ADDRESS: 1900 Derry Street, Harrisburg, PA 17105-2361. UNDERWRITING LIMITATION b/: \$11,341,000. SURETY LICENSES c/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

See Footnotes at end of Circular

Personal Service Insurance Co. (The). BUSINESS ADDRESS:
P.O. BOX 1226, Columbus, OH 43216-1226. UNDERWRITING LIMITATION
b/: \$2,488,000. SURETY LICENSES c/: IN, OH. INCORPORATED IN:
OHIO.

Phoenix Assurance Company of New York. BUSINESS ADDRESS:
4 World Trade Center, New York, NY 10048. UNDERWRITING
LIMITATION b/: \$3,926,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND,
OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI,
WY. INCORPORATED IN: New Hampshire.

Phoenix Insurance Company (The). BUSINESS ADDRESS:
One Tower Square, Hartford, CT 06183-6014. UNDERWRITING
LIMITATION b/: \$55,702,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI,
WY. INCORPORATED IN: Connecticut.

PINNACLE INSURANCE COMPANY. BUSINESS ADDRESS:
P.O. Box 1919, Carrollton, GA 30117. UNDERWRITING LIMITATION b/:
\$377,000. SURETY LICENSES c/: AL, AK, CO, DC, FL, GA, IN, MD, MS,
OH, SC, WY. INCORPORATED IN: Georgia.

PLANET INDEMNITY COMPANY 6/. BUSINESS ADDRESS: 410 - 17th
Street, Suite 1675, Denver, CO 80202. UNDERWRITING LIMITATION
b/: \$361,000. SURETY LICENSES c/: CO. INCORPORATED IN: Colorado.

PLANET INSURANCE COMPANY. BUSINESS ADDRESS: 4 Penn Center
Plaza, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/:
\$760,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE,
DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY.
INCORPORATED IN: Wisconsin.

Progressive Casualty Insurance Company. BUSINESS ADDRESS:
P.O. Box 5070, Cleveland, OH 44101. UNDERWRITING LIMITATION
b/: \$32,241,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT,
DE, DC, FL, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS,
MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD,
TN, TX, UT, VT, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Protective Insurance Company. BUSINESS ADDRESS: 3100 North
Meridian Street, Indianapolis, IN 46208. UNDERWRITING
LIMITATION b/: \$9,067,000. SURETY LICENSES c/: AL, AK, AS, AZ,
AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY,
LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC,
ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA,
WV, WI, WY. INCORPORATED IN: Indiana.

See Footnotes at end of Circular

Prudential Reinsurance Company. BUSINESS ADDRESS: 3 Gateway Center, Newark, NJ 07102-4077. UNDERWRITING LIMITATION b/: \$50,676,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: Delaware.

Puerto Rican-American Insurance Company. BUSINESS ADDRESS: G.P.O. Box 70333, San Juan, PR 00936-7933. UNDERWRITING LIMITATION b/: \$5,381,000. SURETY LICENSES c/: PR, VI. INCORPORATED IN: Puerto Rico.

Ranger Insurance Company. BUSINESS ADDRESS: P. O. Box 2807, Houston, TX 77252-2807. UNDERWRITING LIMITATION b/: \$1,591,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

REGENCY INSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 190, Hallandale, FL 33009-0190. UNDERWRITING LIMITATION b/: \$204,000. SURETY LICENSES c/: FL. INCORPORATED IN: Florida.

Reinsurance Corporation of New York (The). BUSINESS ADDRESS: 80 Maiden Lane, New York, NY 10038. UNDERWRITING LIMITATION b/: \$8,675,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Reliance Insurance Company. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/: \$43,504,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Reliance Insurance Company of New York. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/: \$1,176,000. SURETY LICENSES c/: NY. INCORPORATED IN: New York.

REPUBLIC INSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 660560, Dallas, TX 75266-0560. UNDERWRITING LIMITATION b/: \$14,506,000. SURETY LICENSES c/: AK, AZ, AR, CA, CO, CT, DC, GA, ID, IA, KS, LA, MD, MS, MO, NJ, NM, NY, NC, ND, OH, OR, PA, PR, SC, TX, UT, VA, WA, WV, WI. INCORPORATED IN: Delaware.

See Footnotes at end of Circular

Republic Western Insurance Company. BUSINESS ADDRESS:
2721 N. Central Avenue, Phoenix, AZ 85004. UNDERWRITING
LIMITATION b/: \$9,123,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, DE, DC, FL, GA, ID, IL, IA, KS, KY, LA, MD, MA, MI, MS,
MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD,
TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

Royal Indemnity Company. BUSINESS ADDRESS: 9300 Arrowpoint
Blvd., Charlotte, NC 28217-5599. UNDERWRITING LIMITATION b/:
\$6,021,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE,
DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY.
INCORPORATED IN: Delaware.

Royal Insurance Company of America. BUSINESS ADDRESS:
9300 Arrowpoint Blvd., Charlotte, NC 28217-5599. UNDERWRITING
LIMITATION b/: \$18,994,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND,
OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV,
WI, WY. INCORPORATED IN: Illinois.

SAFECO Insurance Company of America. BUSINESS ADDRESS:
SAFECO Plaza, Seattle, WA 98185. UNDERWRITING LIMITATION b/:
\$51,413,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT,
DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA,
MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA,
RI, SC, SD, TN, TX, UT, VA, VI, WA, WV, WI, WY. INCORPORATED IN:
Washington.

SAFECO Insurance Company of Illinois. BUSINESS ADDRESS:
1900 West Hassell Road, Hoffman Estates, IL 60196.
UNDERWRITING LIMITATION b/: \$5,527,000. SURETY LICENSES c/: AZ,
CO, IL, KY, MD, MI, MN, MS, NE, NM, OH, OR, PA, TN, TX, UT, WI,
WY. INCORPORATED IN: Illinois.

SAFECO National Insurance Company. BUSINESS ADDRESS:
SAFECO Plaza, Seattle, WA 98185. UNDERWRITING LIMITATION b/:
\$2,202,000. SURETY LICENSES c/: MO, NY. INCORPORATED IN:
Missouri.

SCOR REINSURANCE COMPANY. BUSINESS ADDRESS: 110 William
Street, 18th Floor, New York, NY 10038. UNDERWRITING LIMITATION
b/: \$10,204,000. SURETY LICENSES c/: AL, AZ, AR, CO, DE, FL, GA,
ID, IL, IN, IA, KS, LA, MD, MA, MN, MS, NE, NV, NJ, NM, NY, OH,
OR, PA, SC, TX, VT, WA, WY. INCORPORATED IN: New York.

See Footnotes at end of Circular

St. Paul Fire and Marine Insurance Company. BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. **UNDERWRITING LIMITATION b/:** \$153,066,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. **INCORPORATED IN:** Minnesota.

ST. PAUL GUARDIAN INSURANCE COMPANY. BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. **UNDERWRITING LIMITATION b/:** \$1,950,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. **INCORPORATED IN:** Minnesota.

St. Paul Mercury Insurance Company. BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. **UNDERWRITING LIMITATION b/:** \$3,678,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** Minnesota.

Seaboard Surety Company. BUSINESS ADDRESS: Burnt Mills Road and Route 206, Bedminster, NJ 07921. **UNDERWRITING LIMITATION b/:** \$6,296,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. **INCORPORATED IN:** New York.

Security National Insurance Company. BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028. **UNDERWRITING LIMITATION b/:** \$1,058,000. **SURETY LICENSES c/:** AL, AR, CA, CO, IL, IN, KS, KY, NM, OH, OK, TX, WY. **INCORPORATED IN:** Texas.

Select Insurance Company. BUSINESS ADDRESS: P.O. Box 1771, Dallas, TX 75221. **UNDERWRITING LIMITATION b/:** \$1,746,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, OH, OR, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** Texas.

Selective Insurance Company of America. BUSINESS ADDRESS: Wantage Avenue, Branchville, NJ 07890. **UNDERWRITING LIMITATION b/:** \$17,983,000. **SURETY LICENSES c/:** AL, DE, DC, FL, GA, MD, MS, NJ, NC, PA, SC, TX, VA. **INCORPORATED IN:** New Jersey.

SENTINEL INSURANCE COMPANY, LTD. BUSINESS ADDRESS: P.O. Box 1140, Honolulu, HI 96807. **UNDERWRITING LIMITATION b/:** \$1,069,000. **SURETY LICENSES c/:** HI. **INCORPORATED IN:** Hawaii.

See Footnotes at end of Circular

Sentry Insurance a Mutual Company. BUSINESS ADDRESS:
1800 North Point Drive, Stevens Point, WI 54481. UNDERWRITING
LIMITATION b/: \$54,738,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY.
INCORPORATED IN: Wisconsin.

Skandia America Reinsurance Corporation. BUSINESS ADDRESS:
One Liberty Plaza, New York, NY 10006. UNDERWRITING LIMITATION
b/: \$30,037,000. SURETY LICENSES c/: AZ, CA, DE, DC, GA, IL, IN,
IA, MI, MS, MT, NE, NY, OH, OK, PA, UT, VA, WA, WI. INCORPORATED
IN: Delaware.

South Carolina Insurance Company. BUSINESS ADDRESS:
P.O. Box 1, 1501 Lady Street, Columbia, SC 29202. UNDERWRITING
LIMITATION b/: \$4,537,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA,
MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, SC,
SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: South
Carolina.

Standard Fire Insurance Company (The). BUSINESS ADDRESS:
151 Farmington Avenue, Hartford, CT 06156. UNDERWRITING
LIMITATION b/: \$31,907,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI,
WY. INCORPORATED IN: Connecticut.

State Automobile Mutual Insurance Company. BUSINESS
ADDRESS: 518 East Broad Street, Columbus, OH 43216. UNDERWRITING
LIMITATION b/: \$21,462,000. SURETY LICENSES c/: AL, AZ, AR, CO,
FL, GA, IL, IN, KS, KY, MD, MI, MN, MS, MO, MT, NC, ND, OH, PA,
SC, SD, TN, VA, WV, WI, WY. INCORPORATED IN: Ohio.

State Farm Fire and Casualty Company. BUSINESS ADDRESS:
112 East Washington Street, Bloomington, IL 61701. UNDERWRITING
LIMITATION b/: \$384,657,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Illinois.

State Surety Company. BUSINESS ADDRESS: P.O. Box 1976,
Des Moines, IA 50306. UNDERWRITING LIMITATION b/: \$438,000.
SURETY LICENSES c/: AZ, CO, DC, ID, IL, IA, KS, MN, MO, MT, NE,
NM, ND, SD, WI, WY. INCORPORATED IN: Iowa.

See Footnotes at end of Circular

Insurance Company. BUSINESS ADDRESS:
P.O. Box 799, Waukegan, IL 60079. UNDERWRITING LIMITATION b/:
\$254,000. SURETY LICENSES c/: AZ, AR, IL, IA. INCORPORATED IN:
Illinois.

Surety Company of the Pacific. BUSINESS ADDRESS:
P.O. Box 1067, Northridge, CA 91328. UNDERWRITING LIMITATION b/:
\$222,000. SURETY LICENSES c/: CA. INCORPORATED IN: California.

TEXAS PACIFIC INDEMNITY COMPANY. BUSINESS ADDRESS: Diamond
Shamrock Tower, 717 North Harwood, Dallas, TX 75201.
UNDERWRITING LIMITATION b/: \$523,000. SURETY LICENSES c/: AR,
TX. INCORPORATED IN: Texas.

Transamerica Insurance Company. BUSINESS ADDRESS:
6300 Canoga Avenue, Woodland Hills, CA 91367. UNDERWRITING
LIMITATION b/: \$80,507,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND,
OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: California.

Transamerica Insurance Company of Michigan. BUSINESS
ADDRESS: 103 West Michigan Avenue, Battle Creek, MI 49016.
UNDERWRITING LIMITATION b/: \$1,389,000. SURETY LICENSES c/:
AR, IL, IN, IA, KS, MI, MN, MO, OH, SD, TX, UT. INCORPORATED IN:
Michigan.

Transamerica Premier Insurance Company. BUSINESS ADDRESS:
333 South Anita Drive, Orange, CA 92668. UNDERWRITING
LIMITATION b/: \$10,187,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK,
OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: California.

Transcontinental Insurance Company. BUSINESS ADDRESS:
CNA Plaza, Chicago, IL 60685. UNDERWRITING LIMITATION b/:
\$9,531,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE,
DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN,
MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR,
RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN:
New York.

Transportation Insurance Company. BUSINESS ADDRESS:
CNA Plaza, Chicago, IL 60685. UNDERWRITING LIMITATION b/:
\$3,572,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE,
DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN,
MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI,
SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN:
Illinois.

See Footnotes at end of Circular

Travelers Indemnity Company (The). BUSINESS ADDRESS:
One Tower Square, Hartford, CT 06183-6014. UNDERWRITING
LIMITATION b/: \$155,004,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND,
OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV,
WI, WY. INCORPORATED IN: Connecticut.

TRAVELERS INDEMNITY COMPANY OF AMERICA (THE). BUSINESS
ADDRESS: One Tower Square, Hartford, CT 06183-6014. UNDERWRITING
LIMITATION b/: \$6,393,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD,
MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR,
PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: Georgia.

Travelers Indemnity Company of Illinois (The). BUSINESS
ADDRESS: 200 West Madison Street, Chicago, IL 60606.
UNDERWRITING LIMITATION b/: \$2,208,000. SURETY LICENSES c/: AL,
AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS,
KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY,
NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA,
WV, WI. INCORPORATED IN: Illinois.

Travelers Indemnity Company of Rhode Island (The). BUSINESS
ADDRESS: One Tower Square, Hartford, CT 06183-6014. UNDERWRITING
LIMITATION b/: \$12,844,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI,
WY. INCORPORATED IN: Rhode Island.

Tri-State Insurance Company of Minnesota. BUSINESS ADDRESS:
One Roundwind Road, Luverne, MN 56156. UNDERWRITING LIMITATION
b/: \$3,368,000. SURETY LICENSES c/: DC, IA, NE, ND, SD, WI.
INCORPORATED IN: Minnesota.

Trinity Universal Insurance Company. BUSINESS ADDRESS:
P.O. Box 655028, Dallas, TX 75265-5028. UNDERWRITING LIMITATION
b/: \$59,473,000. SURETY LICENSES c/: AL, AZ, AR, CA, CO, GA, IL,
IN, IA, KS, KY, LA, MI, MO, NE, NM, OH, OK, OR, TX, WY.
INCORPORATED IN: Texas.

Trinity Universal Insurance Company of Kansas, Inc.
BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028.
UNDERWRITING LIMITATION b/: \$569,000. SURETY LICENSES c/: AL, AZ,
CO, KS, KY, LA, NE, OH, OK, TX. INCORPORATED IN: Kansas.

See Footnotes at end of Circular

Twin City Fire Insurance Company. BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. **UNDERWRITING LIMITATION b/:** \$6,434,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** Indiana.

U.S. Capital Insurance Company. BUSINESS ADDRESS: 4 West Red Oak Lane, White Plains, NY 10604. **UNDERWRITING LIMITATION b/:** \$1,846,000. **SURETY LICENSES c/:** AZ, DC, FL, GA, ID, IN, MD, MI, NY, ND, WI. **INCORPORATED IN:** NEW YORK.

ULICO CASUALTY COMPANY. BUSINESS ADDRESS: 111 Massachusetts Avenue, NW, Washington, DC 20001. **UNDERWRITING LIMITATION b/:** \$5,127,000. **SURETY LICENSES c/:** AL, AK, AS, AZ, AR, CO, CT, DE, DC, GA, HI, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI. **INCORPORATED IN:** Delaware.

Unigard Security Insurance Company. BUSINESS ADDRESS: 15805 NE 24th Street, Bellevue, WA 98008-2409. **UNDERWRITING LIMITATION b/:** \$6,929,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, IN, IA, KS, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. **INCORPORATED IN:** Washington.

Union Insurance Company. BUSINESS ADDRESS: P.O. Box 80439, Lincoln, NE 68501. **UNDERWRITING LIMITATION b/:** \$1,942,000. **SURETY LICENSES c/:** AR, CO, DC, ID, IA, KS, MD, MN, MO, MT, NE, ND, OK, SD, TX, UT, VA, WA, WY. **INCORPORATED IN:** Nebraska.

United Capitol Insurance Company 7/. BUSINESS ADDRESS: 1400 Lake Hearn Drive, Atlanta, GA 30319. **UNDERWRITING LIMITATION b/:** \$5,936,000. **SURETY LICENSES c/:** AZ, WI. **INCORPORATED IN:** Wisconsin.

United Coastal Insurance Company. BUSINESS ADDRESS: P.O. Box 2350, 233 Main Street, New Britain, CT 06050-2350. **UNDERWRITING LIMITATION b/:** \$2,332,000. **SURETY LICENSES c/:** AZ. **INCORPORATED IN:** Arizona.

United Fire & Casualty Company. BUSINESS ADDRESS: P.O. Box 73909, Cedar Rapids, IA 52407. **UNDERWRITING LIMITATION b/:** \$8,203,000. **SURETY LICENSES c/:** AK, AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MD, MN, MS, MO, MT, NE, NJ, NM, NY, ND, OH, OK, OR, SC, SD, TX, UT, WA, WI, WY. **INCORPORATED IN:** Iowa.

UNITED NATIONAL INSURANCE COMPANY. BUSINESS ADDRESS: 1737 Chestnut Street, Philadelphia, PA 19103. **UNDERWRITING LIMITATION c/:** \$6,856,000. **SURETY LICENSES c/:** PA. **INCORPORATED IN:** Pennsylvania.

See Footnotes at end of Circular

United Pacific Insurance Company. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/: \$26,597,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

United Pacific Insurance Company of New York. BUSINESS ADDRESS: 4 Penn Center Plaza, Philadelphia, PA 19103. UNDERWRITING LIMITATION b/: \$1,490,000. SURETY LICENSES c/: NY. INCORPORATED IN: New York.

UNITED SOUTHERN ASSURANCE COMPANY. BUSINESS ADDRESS: P.O. Box 2648, SUITE: 300, Melbourne, FL 32902-2648. UNDERWRITING LIMITATION b/: \$973,000. SURETY LICENSES c/: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IN, IA, KS, KY, LA, MD, MI, MS, MO, MT, NE, NV, NJ, NM, NC, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

United States Fidelity and Guaranty Company. BUSINESS ADDRESS: P.O. Box 1138, 100 Light Street, Baltimore, MD 21203. UNDERWRITING LIMITATION b/: \$141,671,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

UNIVERSAL INSURANCE COMPANY. BUSINESS ADDRESS: G.P.O. Box 71338, San Juan, PR 00936. UNDERWRITING LIMITATION b/: \$2,241,000. SURETY LICENSES c/: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company. BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. UNDERWRITING LIMITATION b/: \$1,284,000. SURETY LICENSES c/: AZ, CO, ID, IL, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, UT, WI, WY. INCORPORATED IN: Nebraska.

Universal Surety of America. BUSINESS ADDRESS: 1812 Durham, Houston, TX 77007. UNDERWRITING LIMITATION b/: \$300,000. SURETY LICENSES c/: AL, AR, CO, KS, LA, MS, TX. INCORPORATED IN: Texas.

UNIVERSAL UNDERWRITERS INSURANCE COMPANY. BUSINESS ADDRESS: 6363 College Blvd., Overland Park, KS 66211. UNDERWRITING LIMITATION b/: \$24,666,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

See Footnotes at end of Circular

Utica Mutual Insurance Company. BUSINESS ADDRESS:
P.O. Box 530, Utica, NY 13503. UNDERWRITING LIMITATION b/:
\$10,681,000. SURETY LICENSES c/: AL, AK, AS, AZ, AR, CA, CO, CT,
DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA,
PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED
IN: New York.

Valley Forge Insurance Company. BUSINESS ADDRESS: CNA Plaza,
Chicago, IL 60685. UNDERWRITING LIMITATION b/: \$8,113,000.
SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA,
ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE,
NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX,
UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

VAN TOL SURETY COMPANY, INCORPORATED. BUSINESS ADDRESS:
424 Fifth Street, Brookings, SD 57006. UNDERWRITING LIMITATION
b/: \$157,000. SURETY LICENSES c/: SD. INCORPORATED IN: South
Dakota.

Vigilant Insurance Company. BUSINESS ADDRESS:
P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615.
UNDERWRITING LIMITATION b/: \$17,362,000. SURETY LICENSES c/: AL,
AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA,
KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM,
NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI,
WA, WV, WI, WY. INCORPORATED IN: New York.

Washington International Insurance Company. BUSINESS
ADDRESS: 1930 Thoreau Drive, SUITE: 101, Schaumburg, IL 60173.
UNDERWRITING LIMITATION b/: \$619,000. SURETY LICENSES c/: AL,
AZ, CA, DC, FL, GA, IL, IN, MD, MA, MI, MO, NY, NC, OH, OR, SC,
TX, VA, WA. INCORPORATED IN: Arizona.

West American Insurance Company. BUSINESS ADDRESS:
136 North Third Street, Hamilton, OH 45025. UNDERWRITING
LIMITATION b/: \$47,770,000. SURETY LICENSES c/: AL, AZ, AR, CA,
CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN,
MS, MO, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN,
TX, UT, VA, WA, WI, WY. INCORPORATED IN: California.

Westchester Fire Insurance Company. BUSINESS ADDRESS:
211 Mt. Airy Road, Basking Ridge, NJ 07920. UNDERWRITING
LIMITATION b/: \$12,182,000. SURETY LICENSES c/: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME,
MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH,
OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY.
INCORPORATED IN: New York.

See Footnotes at end of Circular

WESTERN CASUALTY AND SURETY COMPANY (THE). BUSINESS ADDRESS: P.O. Box 1636, Indianapolis, IN 46204. **UNDERWRITING LIMITATION b/:** \$16,507,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NV, NJ, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, WA, WV, WI, WY. **INCORPORATED IN:** Kansas.

Western Surety Company. BUSINESS ADDRESS: 101 South Phillips Avenue, Sioux Falls, SD 57192. **UNDERWRITING LIMITATION b/:** \$1,814,000. **SURETY LICENSES c/:** AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** South Dakota.

Westfield Insurance Company. BUSINESS ADDRESS: Westfield Center, OH 44251. **UNDERWRITING LIMITATION b/:** \$13,389,000. **SURETY LICENSES c/:** AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. **INCORPORATED IN:** Ohio.

Westfield National Insurance Company. BUSINESS ADDRESS: Westfield Center, OH 44251. **UNDERWRITING LIMITATION b/:** \$4,285,000. **SURETY LICENSES c/:** IA, OH. **INCORPORATED IN:** Ohio.

See Footnotes at end of Circular

**COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE
REINSURING COMPANIES UNDER SECTION 223.3(b) OF TREASURY
CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 (See Note (e))**

Alliance Assurance Company, Limited, U.S. Branch. BUSINESS ADDRESS: P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615. UNDERWRITING LIMITATION b/: \$8,728,000.

Belvedere America Reinsurance Company. BUSINESS ADDRESS: 110 William Street, New York, NY 10038. UNDERWRITING LIMITATION b/: \$2,991,000.

Frankona Reinsurance Company, US Branch. BUSINESS ADDRESS: P.O. Box 419069, Kansas City, MO 64141-6069. UNDERWRITING LIMITATION b/: \$5,028,000.

London Assurance (The), US Branch. BUSINESS ADDRESS: P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615. UNDERWRITING LIMITATION b/: \$13,942,000.

Munich Reinsurance Company, US Branch. BUSINESS ADDRESS: 560 Lexington Ave., New York, NY 10022. UNDERWRITING LIMITATION b/: \$33,426,000.

Sea Insurance Company, Limited (The), US Branch. BUSINESS ADDRESS: P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615. UNDERWRITING LIMITATION b/: \$8,731,000.

Sun Insurance Office, Limited, US Branch. BUSINESS ADDRESS: P.O. Box 1615, 15 Mountain View Road, Warren, NJ 07061-1615. UNDERWRITING LIMITATION b/: \$13,561,000.

Swiss Reinsurance Company, US Branch. BUSINESS ADDRESS: 237 Park Avenue, New York, NY 10017. UNDERWRITING LIMITATION b/: \$29,722,000.

Tokio Marine and Fire Insurance Company, Limited (The), US Branch. BUSINESS ADDRESS: 101 Park Avenue, New York, NY 10178. UNDERWRITING LIMITATION b/: \$9,788,000.

Trans Pacific Insurance Company. BUSINESS ADDRESS: 101 Park Avenue, New York, NY 10178. UNDERWRITING LIMITATION b/: \$1,606,000.

WINTERTHUR REINSURANCE CORPORATION OF AMERICA. BUSINESS ADDRESS: Two World Financial Center, 225 Liberty Street, 42nd Floor, New York, NY 10281. UNDERWRITING LIMITATION b/: \$16,598,000.

Zurich Insurance Company, U.S. Branch. BUSINESS ADDRESS: 1400 American Lane, Schaumburg, IL 60196. UNDERWRITING LIMITATION b/: \$44,652,000.

See Footnotes at end of Circular

FOOTNOTES

- 1/ Fritz Insurance Company changed its name to Consolidated Surety Insurance Company effective May 31, 1990.
- 2/ Contractor's Bonding and Insurance Company does business in the State of California as CBIC Bonding and Insurance Company.
- 3/ Federal Insurance Company changed its State of Domicile from New Jersey to Indiana, effective March 25, 1990.
- 4/ International Cargo and Surety Insurance Company changed its name to Intercargo Insurance Company effective June 15, 1990.
- 5/ MCA Insurance Company changed its State of Domicile from New Jersey to Indiana, effective March 25, 1990.
- 6/ Planet Indemnity Company changed its State of Domicile from Texas to Colorado effective January 28, 1987.
- 7/ United Capitol Insurance Company is an approved surplus lines carrier in all fifty states. Such approval may indicate that the company is authorized to write surety in a particular state, even though the Company is not licensed in the State. Questions related to this, may be directed to the appropriate State Insurance Department.

NOTES

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11). Treasury refers to a bond of this type as an Excess Risk. When Excess Risks on bonds in favor of the United States are protected by reinsurance, such reinsurance is to be effected by use of a Federal reinsurance form to be filed with the bond or within 45 days thereafter. In protecting such excess, the underwriting limitation in force on the day in which the bond was provided will govern absolutely.

(c) A surety company must be licensed in the State or other area in which it provides a bond, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed (28 Op. Atty. Gen. 127, Dec. 24, 1909; 31 CFR Section 223.5(b)). The term "other area" includes the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

(d) **FEDERAL PROCESS AGENTS:** Treasury approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224 in the following districts: Where the principal resides; where the obligation is to be performed; and in the District of Columbia where the bond is returnable or filed. No process agent is required in the State or other area where the company is incorporated (31 CFR Section 224.2). The name and address of a particular surety's process agent in a particular Federal Judicial District may be obtained from the Clerk of the U.S. District court in that district. (The appointment documents are on file with the clerks.) (NOTE: A surety company's underwriting agent who furnishes its bonds may or may not be its authorized process agent.)

SERVICE OF PROCESS: Process should be served on the Federal process agent appointed by a surety in a judicial district, except where the appointment of such agent is pending or during the absence of such agent from the district. Only in the event an agent has not been duly appointed, or the appointment is pending, or the agent is absent from the district, should process be served directly on the Clerk of the court pursuant to the provisions of 31 U.S.C. 9306.

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.

[FR Doc. 90-14769 Filed 6-29-90; 8:45 am]

BILLING CODE 4810-35-C

largest federal program

Monday
July 2, 1990

Part III

Department of Health and Human Services

Office of Human Development Services

**Availability of Financial Assistance To
Expand Head Start Enrollment; Notice**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. ACYF-HS 13.600-90-02]

Availability of Financial Assistance To Expand Head Start Enrollment

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS).

ACTION: Announcement of financial assistance to expand Head Start enrollment.

SUMMARY: The Head Start Bureau of the Administration for Children, Youth and Families announces that competing applications will be accepted to establish new Head Start programs or expand current programs in counties or Federal Indian Reservations not currently served by Head Start and to establish or expand programs serving children of migrant farmworkers.

DATES: The closing date for receipt of applications is September 28, 1990.

ADDRESSES: Address applications to: Head Start Expansion, Office of Human Development Services, Grants and Contracts Management Division, 200 Independence Avenue SW., Hubert H. Humphrey Building, Room 341-F, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Douglas Klafehn (202) 245-0569.

SUPPLEMENTARY INFORMATION:

Part I. General Information

A. Background

This announcement solicits applications from eligible applicants that wish to compete for grants to serve low-income preschool Head Start children in areas not currently served by Head Start.

In fiscal year 1990, the Administration for Children, Youth and Families (ACYF) is authorized to award a total of \$265,665,000 to expand Head Start enrollment by an estimated 97,500 children. An analysis was done to determine a fair distribution of expansion funds among the counties in each State, based on the numbers of eligible children in each county and the amount of Federal Head Start funding already being provided. For counties where a Head Start grantee already operates, the current grantee will have an opportunity to apply for the expansion funds that accrue to the county. Head Start grantees funded by one of the ten Regional Offices have been informed that they may apply

directly to their respective ACYF Regional Offices for specified levels of expansion funds. Programs funded by the American Indian Programs Branch and the Migrant Programs Branch have also been informed that they may apply directly to their respective Branch to expand enrollment. We estimate that current Head Start grantees will receive \$236,497,000 in expansion funding through these direct allotments. The remaining \$29,168,000 will be awarded to applicants responding to this announcement.

If additional funds are appropriated in fiscal year 1991 to increase Head Start enrollment, as requested in the President's budget, some of the additional fiscal year 1991 funds may be awarded using the results of this competitive process.

Expansion applications should be submitted under one of the following three categories:

Category 1. Children living in counties that are not currently served by Head Start. A list of unserved counties is included in Table A.

Eligible applicants are: (a) Head Start grantees from nearby counties that wish to expand their programs into unserved counties; and (b) other local public or private non-profit organizations that wish to initiate a Head Start program in one or more unserved counties.

Category 2. Children living on Federally recognized Indian reservations that are not currently served by Head Start.

Eligible applicants are Tribal governments, or agencies designated by the Tribal government, of unserved reservations that wish to initiate a Head Start program.

Category 3. Children of migrant farmworkers.

Eligible applicants are: (a) Head Start grantees currently funded by the Migrant Programs Branch that wish to serve additional children of migrant farmworkers in the counties they currently serve (a list of counties where migrant Head Start programs currently operate is shown in Table B); and (b) public and private non-profit agencies, including migrant Head Start grantees, that wish to initiate a program for migrant children in counties that are not currently served by a migrant Head Start program. (Any county not listed in Table B is considered unserved.)

All current migrant Head Start grantees may apply under this category, regardless of the fact that these grantees have already received some of the FY 1990 expansion funds allotted for the purpose of expanding migrant Head Start enrollment.

Applicants may apply for more than one category, but must submit a separate application for each category.

B. Program Purpose

Head Start is a national program providing comprehensive developmental services primarily to low-income preschool children and their families. To help enrolled children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. In addition, Head Start programs are required to provide for the direct participation of parents of enrolled children in the development, conduct, and direction of local programs. Head Start currently serves approximately 450,000 children through a network of approximately 1,285 grantees.

While Head Start is targeted primarily towards children whose families have incomes at or below the poverty line or who are eligible for public assistance, regulations permit up to 10 percent of the Head Start children in local programs to be from families who do not meet these low-income criteria. The Head Start statute also requires that a minimum of 10 percent of enrollment opportunities in each State be made available to children with disabilities. Such children are expected to be enrolled in the full range of Head Start services and activities in a mainstream setting with their non-disabled peers, and to receive needed special education and related services.

C. Statutory and Regulatory Authority

The Head Start program is authorized by the Head Start Act, 42 U.S.C. 9831 et seq.

The relevant regulations are:

45 CFR part 1301, Head Start grants administration.

45 CFR part 1302, Policies and procedures for selection, initial funding, and refunding of Head Start grantees, and for selection of replacement grantees.

45 CFR part 1303, Procedures for appeals for Head Start delegate agencies, and for opportunities to show cause and hearings for Head Start grantees.

45 CFR part 1304, Program Performance Standards for operation of Head Start programs by grantees and delegate agencies.

45 CFR part 1305, Eligibility requirements and limitations for enrollment in Head Start.

45 CFR part 74, Administration of Grants, and 45 CFR part 92, Uniform Administration Requirements for Grants

and Cooperative Agreements to State and Local Governments.

D. Available Funds

1. A total of approximately \$17,168,000 will be made available under this announcement for establishing new Head Start programs in currently unserved counties (Category 1). The available funds, by State, for this category are provided in Table C. To assure that the program can operate effectively, applicants that are not current Head Start grantees will generally not be funded to initiate a new program in unserved counties for less than 60 children, unless the applicant can explain why a smaller enrollment level is appropriate for the county proposed for expansion. Current Head Start grantees may be funded for as little as one class when they expand into an unserved county if such an expansion would be cost efficient.

2. For applicants applying to serve children on unserved Indian reservations (Category 2), up to \$1,000,000 will be made available.

Applicants will generally not be funded for less than 60 children, unless the applicant can explain why a smaller enrollment level is appropriate.

3. For applicants applying to serve migrant children (Category 3), up to \$11,000,000 will be made available.

Applicants that are not Head Start grantees will generally not be funded to initiate a new program for less than 60 children, unless the applicant can explain why a smaller enrollment level is appropriate for its proposed program. The number of new children for which a current grantee is funded will be based on an assessment of need in the grantee's service area.

E. Eligible Applicants

Eligible applicants are those noted in Section A above.

Part II. Specific Responsibilities

A. Application Requirements

In carrying out the proposed expansion of Head Start enrollment under this announcement, applicants should:

1. Demonstrate that there is a need for assistance, based on the stated objectives of the program the applicant intends to operate.

2. Assure that services will be provided to those families and children who have the most serious need for Head Start services. All applicants must clearly document the number of unserved Head Start eligible children living in their proposed recruitment area.

Applicants applying to serve migrant children must clearly document the number of migrant families and children in their proposed service area and the period of time which these families are in the applicant's proposed service area.

3. Demonstrate that the proposed program is consistent with the needs of the participants and the community proposed to be served.

4. Indicate what county or counties the applicant is proposing to serve. For Category I applicants, 20 of the 50 points in Criterion 1 (see Part III) will be assigned based on the relative numbers of eligible children in the county (or counties) proposed for service as compared with other unserved counties in the State. Scores will be assigned using the most recent data available from the Census Bureau on the population of Head Start eligible children in each county. Applicants may provide additional, verifiable demographic data if they wish to demonstrate that the number of eligible children in the county or counties proposed for service has increased at a significantly faster rate than it has in the rest of the State.

5. Demonstrate that the community will benefit from the services provided.

6. Give priority to serving children in the year prior to the child's entry into kindergarten or, in counties where kindergarten is not available, into first grade. Indicate the ages of the children proposed for expansion and the number of these children who will be entering kindergarten the following year.

7. Provide for the involvement of parents and other community members and organizations in the development and planning of the application.

8. Demonstrate that the applying organization has the ability and experience to administer a Head Start program.

9. Propose to implement the increase in enrollment in a timely and efficient manner. This includes assuring the availability of classroom space which meets required licensing standards, the ability to provide adequate transportation, and the ability to recruit eligible children and families.

10. Indicate what types of cooperative arrangements have been made with other public or private agencies which will assist the applicant in providing quality Head Start services.

11. Hire classroom teachers who have received appropriate training or have experience in early childhood education and provide employment opportunities for residents from the service area.

12. Propose a reasonable staffing pattern and identify all proposed staff,

their proposed salary rates and the length of time they will be employed.

13. Explain why the proposed recruitment area has been chosen as opposed to other areas in the county.

14. Provide quality ongoing services at a reasonable cost. Propose reasonable start-up costs, which are separately identified in the grant application.

15. Explain what other resources in the community will help support the proposed expansion in enrollment.

B. Recipient Share of the Project

Section 640(b) of the Head Start Act requires that at least 20 percent of the total cost of Head Start projects come from sources other than the Federal government. The non-Federal share may be in cash or in-kind, fairly valued, including facilities, equipment, or volunteer services.

Part III. Criteria for Review and Evaluation of the Grant Application

In considering how applicants will carry out the responsibilities addressed under Part II of this announcement, competing applications for financial assistance will be reviewed and evaluated against the following criteria.

A. Objectives and Need for Assistance (50 points)

The extent to which the application pinpoints any relevant physical, economic, social, financial, institutional, or other problems requiring a grant; demonstrates the need for assistance; states the principal and subordinate objectives of the project; and provides supporting documentation or other testimonies from concerned interests other than the applicant.

Information provided in response to Part II, Section A, Numbers 1, 2, 3 and 4 will be used to review and evaluate applicants on the above criterion.

B. Results or Benefits Expected (10 points)

The extent to which the application identifies the results and benefits to be derived and describes the anticipated contribution to policy, practice, theory and/or research.

Information provided in response to Part II, Section A, Number 5 will be used to review and evaluate applicants on the above criterion.

C. Approach (25 points)

The extent to which the application outlines an acceptable plan of action pertaining to the scope of the project which details how the proposed work will be accomplished; lists each organization, consultant, or other key

individuals who will work on the project along with a short description of the nature of their effort or contribution; and demonstrates that the program would employ residents of the applicant's proposed service area.

Information provided in response to Part II, Section A, Numbers 6, 7, 8, 9, 10, 11, and 12 of this announcement will be used to review and evaluate applicants on the above criterion.

D. Geographic Location (5 points)

The extent to which the application gives a precise location of the project and area to be served by the proposed project and describes the families to be served.

Information provided in response to Part II, Section A, Number 13 of this announcement will be used to review and evaluate applicants on the above criterion.

E. Budget Appropriateness and Reasonableness (10 points)

The extent to which the project's costs are reasonable in view of the activities to be carried out and the anticipated outcomes. The extent to which assurances are provided that the applicant can and will contribute the non-Federal share of the total project cost.

Information provided in response to Part II, Section A, Numbers 14 and 15 of this announcement will be used to review and evaluate applicants on the above criterion.

Part IV. The Application Process

A. Availability of Forms

Eligible agencies interested in applying for funds must submit all of the required forms included at the end of this announcement in Appendix C.

In order to be considered for a Head Start grant, an application must be submitted on the Standard Form 424. Each application must be signed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award and must contain certification regarding lobbying. Applications must be prepared in accordance with the guidance provided in this announcement and the instructions contained in the application kit.

B. Conference for Prospective Applicants

A conference for prospective applicants will be conducted by each OHDS Regional Office between three weeks and five weeks after publication date of this announcement. Conferences

will also be held in Washington, DC for prospective applicants for programs to serve American Indians or migrant farmworker families. At these conferences OHDS staff will answer questions about this announcement and about the Head Start program. It is not necessary to attend the conference to submit a grant application.

Information about the location and time of a conference may be obtained by calling the appropriate Regional Office at the number shown in Appendix A.

C. Application Submission

One signed original and two copies of the grant application, including all attachments, are required. Completed applications must be sent to: Head Start Expansion, Office of Human Development Services, Grants and Contracts Management Division, Room 341F2, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201. The program announcement number (ACYF-HS 13600-90.02) must be clearly identified on the application. Applicants must also indicate in Box 11 on Standard Form 424 which of the three categories of children noted in Section A above they are applying to serve. Applicants may apply to serve children in more than one category but must submit a separate application for each category. Applicants applying for more than one category in a single application will not be considered for funding.

D. Application Consideration

Applicants will be scored against the evaluation criteria outlined in Section III. The review will be conducted in Washington, DC. Reviewers will be persons knowledgeable about the Head Start program and early childhood education and development, including parents of Head Start children, Federal staff, and other experts, such as university staff or staff of child development projects.

The results of the competitive review will be taken into consideration by the Associate Commissioner, Head Start Bureau, who, in consultation with OHDS Regional Officials, will recommend projects to be funded. The Commissioner of ACYF will make the final selection of the applicants to be funded. Applications may be funded in whole or in part depending on relative need, applicant ranking, and funds available.

The Commissioner may elect not to fund any applicants that have management, fiscal, or other problems and situations which make it unlikely that they would be able to provide effective Head Start services. For

example, this might apply to a current Head Start grantee which has had large, chronic balances of unobligated funds due to poor management, or one that has failed to serve children in the agreed upon numbers. Also, the Commissioner may decide not to fund projects which would require unreasonably large initial start-up costs for facilities or equipment. In addition, ACYF will assess the quality of current Head Start programs recommended for increased funding, using information from the Program Information Report, on-site reviews, cost studies, etc., prior to making final funding decisions. ACYF may elect not to provide expansion funding to programs experiencing problems in providing quality services. The degree of community support will be considered when selecting among applicants for unserved counties whose rankings are similar.

Successful applicants will be notified through the issuance of a Financial Assistance Award which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, the non-Federal share to be provided, and the total project period for which support is provided.

E. Closing Date for Receipt of Applications

The closing date for the receipt of applications is September 28, 1990.

1. *Deadlines.* Applications shall be considered as meeting the deadline if they are either:

- Received on or before the deadline date at the HDS Grants and Contracts Management Office, or
- Sent on or before the deadline date, and received by the granting agency in time for them to be considered during the competitive review and evaluation process under Chapter 1-62 of the Health and Human Services Grants Administration Manual. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

2. *Applications submitted by other means.* Applications which are not submitted in accordance with the above criteria shall be considered as meeting the deadline only if they are physically received before the close of business on or before the deadline date. Hand delivered applications will be accepted at the HDS Grants and Contracts Management Division during the normal

working hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.

3. *Late Applications.* Applications which do not meet one of these criteria are considered as late applications. The Head Start Bureau will notify each late applicant that its application will not be considered in this expansion.

4. *Extension of deadline.* The Head Start Bureau may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if the Head Start Bureau does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

F. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96-511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved for HDS grant applications under OMB Control Number 0348-0043.

G. Executive Order 12372—Notification Process

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. All States and territories except Alaska, Idaho, Kansas, Louisiana, Minnesota, Nebraska, Virginia, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs).

Applicants from these areas need take no action regarding E.O. 12372. Otherwise, applicants should contact their SPOC as soon as possible to alert them of the prospective application and to receive any necessary instructions. Applicants must submit any required material to the SPOC as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the SF 424, item 22a.

SPOCs have 60 days from the application deadline date to comment on applications submitted under this announcement. Therefore, the comment period for State processes will end on November 27, 1990, to allow time for HDS to review, consider, and attempt to accommodate SPOC input. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule.

When comments are submitted directly to OHDS, they should be addressed to: Department of Health and Human Services, Office of Human Development Services, Grants and Contracts Management Division, 200 Independence Avenue SW., Hubert H. Humphrey Building, Room 341F.2, Washington, DC 20201, Attn: William J. McCarron, HDS-90-ACYF/Head Start/Expansion. HDS will notify the State of any application received which has no indication that the State process has had an opportunity for review.

A list of Single Point of Contact for each State and territory is included at Appendix B.

(Catalog of Federal Domestic Assistance Program Number 13.600, Project Head Start)
Dated: April 4, 1990.

Wade F. Horn,

Commissioner, Administration for Children, Youth and Families.

Approved: April 13, 1990.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

Table A.—Counties Not Served by Head Start Programs Funded by OHDS Regional Offices

Alabama

Blount, Chilton, Choctaw, Conecuh, Fayette, Geneva, Lamar, Limestone, Marion, Randolph, Shelby, Winston

Alaska

Aleutian Islands, Bristol Bay, Dillingham, Haines, Kenai Peninsula, Matanuska, North Slope, Sitka, Southeast, Yukon-Koyukuk

Arizona

No Unserved Counties

Arkansas

Arkansas, Calhoun, Dallas, Grant, Lincoln, Prairie

California

Alpine, Colusa, Mariposa, Mono

Colorado

Baca, Chaffee, Cheyenne, Clear Creek, Custer, Dolores, Douglas, Eagle, Elbert,

Garfield, Gilpin, Grand, Gunnison, Hinsdale, Jackson, Kiowa, Kit Carson, Lake, Lincoln, Mineral, Moffat, Montrose, Ouray, Park, Phillips, Pitkin, Rio Blanco, Routt, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Yuma

Connecticut

No Unserved Counties

Delaware

No Unserved Counties

Dist. of Columbia

No Unserved Counties

Florida

Calhoun, Citrus, De Soto, Dixie, Flagler, Franklin, Gilchrist, Glades, Gulf, Hardee, Hendry, Highlands, Jackson, Jefferson, Levy, Liberty, Madison, Martin, Okeechobee, Santa Rosa, Wakulla

Georgia

Atkinson, Brantley, Calhoun, Charlton, Chattahoochee, Clay, Columbia, Crisp, Decatur, Dooley, Echols, Fayette, Glascock, Heard, Johnson, Jones, Lee, Lincoln, Miller, Monroe, Oconee, Pierce, Pike, Quitman, Seminole, Talbot, Taliaferro, Taylor, Warren, Wilkes, Wilkinson

Hawaii

Kalawao

Idaho

Adams, Bear Lake, Benewah, Blaine, Boise, Butte, Camas, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Latah, Lemhi, Lincoln, Madison, Oneida, Owyhee, Power, Teton, Valley

Illinois

Boone, Ford, Grundy, Kendall, Marshall, Menard, Putnam

Indiana

Boone, Carroll, Cass, Clinton, Fayette, Fulton, Hamilton, Howard, Jasper, Kosciusko, Lagrange, Miami, Noble, Tipton, Union, Wabash, White, Whitley

Iowa

Adair, Fremont, Hancock, Madison, Mitchell, Montgomery, Page, Taylor, Winnebago, Worth

Kansas

Anderson, Barber, Barton, Chase, Chautauqua, Cheyenne, Clark, Clay, Cloud, Coffey, Comanche, Decatur, Dickinson, Edwards, Elk, Ellis, Ellsworth, Gove, Graham, Gray, Greeley, Greenwood, Hamilton, Harper, Haskell, Hodgeman, Jefferson, Jewell, Kearny, Kingman, Kiowa, Lane, Lincoln, Logan, McPherson, Marion, Marshall, Meade, Mitchell, Morris, Morton, Ness, Norton, Osborne, Ottawa, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Rice, Rooks, Rush, Russell, Seward, Sheridan, Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wabaunsee, Wallace, Washington, Wilson, Woodson

Kentucky

Bullitt, Caldwell, Gallatin, Henry, Livingston, Meade, Owen, Pendleton, Scott, Shelby, Spencer, Todd

Louisiana

Assumption, Caldwell, Cameron, E. Feliciana, Franklin, Grant, Lafourche, Madison, Plaquemines, Richland, Sabine, St. Bernard, Tensas, Terrebonne, Union, W. Carroll, W. Feliciana

Maine

No Unserved Counties

Maryland

No Unserved Counties

Massachusetts

Dukes, Nantucket

Michigan

No Unserved Counties

Minnesota

No Unserved Counties

Mississippi

No Unserved Counties

Missouri

Barton, Montgomery, Warren

Montana

Beaverhead, Big Horn, Blaine, Broadwater, Carbon, Carter, Chouteau, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Glacier, Golden Valley, Judith Basin, Lake, Liberty, Lincoln, McCone, Madison, Meagher, Musselshell, Park, Petroleum, Phillips, Pondera, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, Yellowstone National Park

Nebraska

Arthur, Banner, Blaine, Boyd, Butler, Cedar, Chase, Clay, Colfax, Cuming, Dawson, Deuel, Dixon, Dundee, Franklin, Frontier, Furnas, Garden, Garfield, Gosper, Grant, Harlan, Hayes, Hitchcock, Hooker, Johnson, Kearney, Keith, Keya Paha, Lincoln, Logan, Loup, McPherson, Nance, Nuckolls, Perkins, Phelps, Pierce, Polk, Red Willow, Rock, Sarpy, Saunders, Seward, Sioux, Stanton, Thomas, Washington, Wayne, Webster, Wheeler, York

Nevada

Churchill, Douglas, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Lyon, Mineral, Nye, Pershing, Storey, Carson City

New Hampshire

No Unserved Counties

New Jersey

No Unserved Counties

New Mexico

De Baca, Harding, Lincoln, Los Alamos, Torrance

New York

Allegany, Hamilton, Herkimer, Livingston, Seneca, Wyoming

North Carolina

Camden, Caswell, Currituck, Davidson, Person, Polk, Randolph, Rutherford

North Dakota

Adams, Barnes, Billings, Bowman, Burke, Cavalier, Dickey, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grant, Griggs, Hettinger, Kidder, La Moure, Logan, McIntosh, McKenzie, McLean, Mercer, Mountrail, Nelson, Oliver, Pembina, Ransom, Renville, Rolette, Sargent, Sheridan, Sioux, Slope, Stark, Steele, Towner, Traill, Walsh, Wells

Ohio

No Unserved Counties

Oklahoma

Alfalfa, Beaver, Cimarron, Dewey, Ellis, Garvin, Grant, Harper, Major, Texas, Woods, Woodward

Oregon

Curry, Gilliam, Grant, Harney, Jefferson, Lake, Lincoln, Morrow, Sherman, Wallowa, Wheeler

Pennsylvania

Pike

Puerto Rico

Vega Alta

Rhode Island

No Unserved Counties

South Carolina

No Unserved Counties

South Dakota

Bennett, Campbell, Clark, Corson, Deuel, Dewey, Haakon, Hamlin, Harding, Hyde, Jackson, Jones, McCook, Mellette, Perkins, Potter, Shannon, Stanley, Tripp, Walworth, Ziebach

Tennessee

Robertson, Van Buren

Texas

Andrews, Aransas, Archer, Armstrong, Austin, Bandera, Baylor, Borden, Brewster, Briscoe, Camp, Carson, Chambers, Coke, Colorado, Concho, Crane, Crockett, Culberson, Deaf Smith, Delta, De Witt, Donley, Edwards, Fayette, Fisher, Foard, Franklin, Gaines, Glasscock, Gonzales, Grayson, Hamilton, Hansford, Hardin, Hartley, Haskell, Hemphill, Hopkins, Hudspeth, Hunt, Irion, Jack, Jackson, Jeff Davis, Jones, Kendall, Kenedy, Kent, Kerr, Kimble, King, Knox, Lamar, Lavaca, Lee, Liberty, Lipscomb, Live Oak, Loving, McMullen, Medina, Menard, Mitchell, Montgomery, Morris, Motley, Nolan, Ochiltree, Oldham, Pecos, Presidio, Rains, Randall, Reagan, Real, Refugio, Roberts, Rockwall, Schleicher, Scurry, Shackelford, Sherman, Stephens, Sterling, Stonewall, Sutton, Swisher, Terrell, Throckmorton, Titus, Trinity, Upshur, Van Zandt, Walker, Waller, Ward, Wheeler, Winkler, Wood, Yoakum, Young

Utah

Beaver, Daggett, Duchesne, Juab, Kane, Morgan, Piute, Rich, Sanpete, Summit, Todele, Uintah, Wayne

Vermont

Grand Isle

Virginia

Alleghany, Amelia, Appomattox, Augusta, Bath, Brunswick, Campbell, Charlotte, Clarke, Culpepper, Cumberland, Dinwiddie, Essex, Fairfax, Frederick, Gloucester, Greene, Greenville, Hanover, Henrico, Henry, Highland, King George, Lancaster, Loudoun, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Nelson, Northumberland, Nottoway, Page, Patrick, Powhatan, Prince George, Prince William, Rappahannock, Richmond, Rockingham, Shenandoah, Spotsylvania, Surry, Sussex, Warren, Westmoreland

Virginia Cities—Colonial Heights, Emporia, Fairfax City, Falls Church, Franklin, Harrisonburg, Hopewell, Manassas City, Manassas Park, Martinsville, Petersburg, Poquoson City, Staunton, Waynesboro, Winchester

Washington

Adams, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, San Juan, Skamania, Wahkiakum, Whitman

West Virginia

Jefferson, Summers, Webster

Wisconsin

Door, Green, Kewaunee, Ozaukee, Vilas

Wyoming

Campbell, Crook, Johnson, Lincoln, Sheridan, Sublette, Sweetwater, Teton, Uinta, Weston

Table B.—Counties Served by Migrant Head Start Programs**Alabama**

Baldwin

Arizona

Maricopa, Pinal, Yuma

Arkansas

Ashley, Bradley, Chicot, Clay, Lawrence, Mississippi, White

California

Butte, Contra Costa, Fresno, Glenn, Imperial, Kern, Kings, Lake, Madera, Mendocino, Merced, Monterey, Riverside, San Benito, San Joaquin, Santa Barbara, Santa Clara, Santa Cruz, Sonoma, Sutter, Stanislaus, Tulare, Ventura, Yolo

Colorado

Adams, Alamosa, Boulder, Conejos, Costilla, Crowley, Larimer, Otero, Saguache, San Luis, Weld

Connecticut

No Served Counties

Delaware

Kent

Florida

Collier, De Soto, Hardee, Hillsborough, Lake,
Lee, Manatee, Martin, Okeechobee,
Orange, Palm Beach, Pasco, Polk, St. Lucie

Georgia

Appling, Montgomery, Toombs, Treutlen,
Wheeler

Idaho

Bingham, Bonneville, Canyon, Cassia,
Gooding, Jefferson, Jerome, Madison,
Minidoka, Owyhee, Payette, Twin Falls,
Washington

Illinois

Iroquois, Jackson, Kane, Kankakee, Kendall,
Mercer, Peoria, Rock Island, Stark, Union,
Vermillion, Will, Williamson

Indiana

Cass, Delaware, Grant, Howard, La Porte,
Madison, Tipton, Wells

Iowa

No Served Counties

Kansas

No Served Counties

Kentucky

No Served Counties

Louisiana

No Served Counties

Maine

No Served Counties

Maryland

Caroline, Dorchester, Queen Annes, Somerset

Massachusetts

No Served Counties

Michigan

Allegan, Arenac, Bay, Berrien, Kent,
Leelanau, Lenawee, Oceana, Ottawa, Van
Buren

Minnesota

Chippewa, Clay, Dodge, Grant, Kandiyohi,
Kittson, Lac qui Parle, Marshall, Norman,
Ottertail, Polk, Red Lake, Steel, Starns,
Swift, Traverse, Waseca, Wilkin, Yellow
Medicine

Mississippi

No Served Counties

Missouri

No Served Counties

Montana

No Served Counties

Nebraska

No Served Counties

Nevada

No Served Counties

New Hampshire

No Served Counties

New Jersey

Atlantic, Cumberland

New Mexico

Dona Ana, Rio Arriba, Roosevelt

New York

Chautauqua, Genesee, Niagara, Ontario,
Orange, Orleans, Oswego, Ulster, Wayne

North Carolina

Davie, Duplin, Forsyth, Greene, Harnett,
Henderson, Johnston, Nash, Pitt, Sampson,
Surry, Wake, Wayne, Wilkes, Wilson,
Yadkin

North Dakota

No Served Counties

Ohio

Mercer, Ottawa, Putnam, Sandusky, Seneca,
Wood

Oklahoma

No Served Counties

Oregon

Harney, Hood River, Jefferson, Klamath,
Malheur, Marion, Umatilla, Washington

Pennsylvania

Erie

Rhode Island

No Served Counties

South Carolina

Charleston

South Dakota

No Served Counties

Tennessee

Bledsoe, Cocke, Coffee, Franklin, Hamblen,
Jefferson, Lincoln, Rhea, Sevier, Unicoi,
Warren

Texas

Bailey, Bexar, Brooks, Cameron, Crosby, Deaf
Smith, Dimmit, Floyd, Frio, Gonzales, Hale,
Hidalgo, Lynn, Maverick, Medina, Nueces,
San Patricio, Starr, Uvalde, Val Verde,
Webb, Willacy, Zavala

Utah

Box Elder, Iron, Morgan, Sanpete, Utah

Vermont

No Served Counties

Virginia

Accomack, Clarke, Frederick, Northampton

Washington

Adams, Benton, Chelan, Douglas, Franklin,
Grant, Okanogan, Skagit, Whatcom, Walla
Walla, Yakima

West Virginia

No Served Counties

Wisconsin

Dodge, Jefferson, Waushara

Wyoming

No Served Counties

Table C.—State Allocations

Estimated State Funding Levels for Unserved
Counties

Alabama.....	\$816,000
Alaska.....	152,000
Arizona.....	N/A
Arkansas.....	178,000
California.....	103,000
Colorado.....	360,000
Connecticut.....	N/A
Delaware.....	N/A
D.C.....	N/A
Florida.....	1,054,000
Georgia.....	1,050,000
Hawaii.....	N/A
Idaho.....	346,000
Illinois.....	201,000
Indiana.....	804,000
Iowa.....	221,000
Kansas.....	942,000
Kentucky.....	437,000
Louisiana.....	1,777,000
Maine.....	N/A
Maryland.....	N/A
Massachusetts.....	30,000
Michigan.....	N/A
Minnesota.....	N/A
Mississippi.....	N/A
Missouri.....	76,000
Montana.....	440,000
Nebraska.....	520,000
Nevada.....	173,000
New Hampshire.....	N/A
New Jersey.....	N/A
New Mexico.....	71,000
New York.....	473,000
North Carolina.....	529,000
North Dakota.....	231,000
Ohio.....	N/A
Oklahoma.....	232,000
Oregon.....	210,000
Pennsylvania.....	52,000
Puerto Rico.....	341,000
Rhode Island.....	N/A
South Carolina.....	N/A
South Dakota.....	248,000
Tennessee.....	105,000
Texas.....	2,430,000
Utah.....	207,000
Vermont.....	4,000
Virginia.....	1,617,000
Washington.....	236,000
West Virginia.....	242,000
Wisconsin.....	194,000
Wyoming.....	66,000

"N/A" means that in these States all
counties are served by Head Start and thus
there will not be any competition for
unserved counties.

A discretionary reserve will be used to
supplement the funds available in those
States with unserved counties where the
State's available funds are not sufficient to
permit an expansion. In those States,
sufficient funds will be made available to
fund one new class (or home-based group)
should an acceptable expansion proposal be
received.

Appendix A—OHDS Regional Offices

Region I: (617) 565-1139

Connecticut, Maine, Massachusetts, New
Hampshire, Rhode Island, Vermont

Region II: (212) 264-2974

New Jersey, New York, Puerto Rico, Virgin Islands

Region III: (215) 596-1224

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Region IV: (404) 331-2398

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Region V: (312) 353-4241

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Region VI: (214) 767-2976

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Region VII: (816) 426-5401

Iowa, Kansas, Missouri, Nebraska

Region VIII: (303) 844-3106

Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Region IX: (415) 556-6153

Arizona, California, Hawaii, Nevada, Outer Pacific

Region X: (206) 442-0838

Alaska, Idaho, Oregon, Washington

American Indian Programs, (202) 245-0437

Migrant Programs, (202) 245-0455

Appendix B—Executive Order 12372—State Single Points of Contract

Alabama

Mrs. Moncell Thornell, State Single Point of Contact, Alabama Department of Economic and Community Affairs, 3465 Norman Bridge Road, Post Office Box 250347, Montgomery, Alabama 36125-0347, Tel. (205) 284-8905

Arizona

Mrs. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, 14th Floor, Phoenix, Arizona 85012, Tel. (602) 280-1315

Arkansas

Mr. Joseph Gillespie, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Tel. (501) 371-1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Tel. (916) 323-7430

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Tel. (303) 866-2158

Connecticut

Under Secretary

ATTN: Intergovernmental Review Coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106-4459, Tel. (203) 566-3410

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins

Building, Dover, Delaware 19903, Tel. (302) 736-3326

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Room 416, District Building, 1350 Pennsylvania Avenue NW., Washington, DC 20004, Tel. (202) 727-9111

Florida

Karen McFarland, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399-0001, Tel. (904) 488-8114

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street SW., Atlanta, Georgia 30334, Tel. (404) 656-3855

Hawaii

Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development, Office of the Governor, State Capitol, Honolulu, Hawaii 96813, Tel. (808) 548-3016 or 548-3085

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Tel. (217) 782-8639

Indiana

Frank Sullivan, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Tel. (317) 232-5610

Iowa

Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Tel. (515) 281-3725

Kentucky

Robert Leonard, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Tel. (502) 564-2382

Maine

State Single Point of Contact
ATTN: Joyce Benson, State Planning Office, State House Station No. 38, Augusta, Maine 04333, Tel. (207) 289-3261

Maryland

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201-2365, Tel. (301) 225-4490

Massachusetts

State Single Point of Contact
ATTN: Beverly Boyle, Executive Office of Communities and Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Tel. (617) 727-7001

Michigan

Milton O. Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Tel. (517) 373-7111

Please direct correspondence to: Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O. Box 30242, Lansing, Michigan 48909, Tel. (517) 373-6223

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Tel. (601) 960-4280

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Tel. (314) 751-4834

Montana

Deborah Stanton, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station, Room 202—State Capitol, Helena, Montana 59620, Tel. (406) 444-5522

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, NV. 89710,
ATTN: John B. Walker, Clearinghouse Coordinator

New Hampshire

Jeffery H. Taylor, Director, New Hampshire Office of State Planning
ATTN: Intergovernmental Review Process/
James E. Bieber, 2 1/2 Beacon Street, Concord, New Hampshire 03301 Tel. (603) 271-2155

New Jersey

Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, Trenton, New Jersey 08625-0803, Trenton, New Jersey 08625-0803, Tel. (609) 292-6613

Please direct correspondence and questions to:

Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625-0803, Tel. (609) 292-9025

New Mexico

Dorothy E. (Duffy) Rodriguez, Deputy Director, State Budget Division, Department of Finance & Administration, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827-3460

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Tel. (518) 474-1605

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733-0499

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Tel. (701) 224-2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266-0411, Tel. (614) 466-0698

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Tel. (405) 843-9770

Oregon

Attn: Delores Streeter, State Single Point of Contact, Intergovernmental Relations Division, State Clearinghouse, 155 Cottage Street NE., Salem, Oregon 97310, Tel. (503) 373-1998

Pennsylvania

Sandra Kline, Project Coordinator, Pennsylvania Intergovernmental Council, P.O. Box 11880, Harrisburg, Pennsylvania 17108, Tel. (717) 783-3700

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265

Melrose Street, Providence, Rhode Island 02907, Tel. (401) 277-2658

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Tel. (803) 734-0493

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Tel. (605) 773-3212

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Tel. (615) 741-1676

Texas

Tom Adams, Office of Budget and Planning, Office of the Governor, P.O. Box 12428, Austin, Texas 78711, Tel. (512) 463-1778

Utah

Dale Hatch, Director, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Tel. (801) 538-1547

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination,

Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Tel. (802) 828-3326

Washington

Marilyn Dawson, Washington Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Mail Stop C1-51, Olympia, Washington 98504-4151, Tel. (206) 753-4978

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building No. 6, Room 553, Charleston, West Virginia 25305, Tel. (304) 348-4010

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940-9985, Tel. (809) 727-4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 & 33 Kongens Gade, Charlotte Amalie, V.I. 00802, Tel. (809) 774-0750.

BILLING CODE 4130-01-M

APPENDIX C

OMB Approval No. 0348-0043

**APPLICATION FOR
FEDERAL ASSISTANCE**

1. TYPE OF SUBMISSION: <i>Application</i> <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction <i>Preapplication</i> <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		2. DATE SUBMITTED	Applicant Identifier																												
3. DATE RECEIVED BY STATE		State Application Identifier																													
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier																													
5. APPLICANT INFORMATION																															
Legal Name:		Organizational Unit:																													
Address (give city, county, state, and zip code):		Name and telephone number of the person to be contacted on matters involving this application (give area code)																													
6. EMPLOYER IDENTIFICATION NUMBER (EIN): <div style="border: 1px solid black; width: 150px; height: 20px; margin: 5px 0;"></div>		7. TYPE OF APPLICANT: (enter appropriate letter in box) <input type="checkbox"/> <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> A. State B. County C. Municipal D. Township E. Interstate F. Intermunicipal G. Special District </div> <div style="width: 48%;"> H. Independent School Dist. I. State Controlled Institution of Higher Learning J. Private University K. Indian Tribe L. Individual M. Profit Organization N. Other (Specify): _____ </div> </div>																													
8. TYPE OF APPLICATION: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision </div> If Revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____		9. NAME OF FEDERAL AGENCY:																													
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px 0;"></div>		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:																													
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):																															
13. PROPOSED PROJECT: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> Start Date: _____ Ending Date: _____ </div> <div style="width: 50%;"> 14. CONGRESSIONAL DISTRICTS OF: a. Applicant _____ b. Project _____ </div> </div>																															
15. ESTIMATED FUNDING: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">a. Federal</td> <td style="width: 10%;">\$</td> <td style="width: 10%;"></td> <td style="width: 10%;">.00</td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>c. State</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>f. Program Income</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td></td> <td>.00</td> </tr> </table>		a. Federal	\$.00	b. Applicant	\$.00	c. State	\$.00	d. Local	\$.00	e. Other	\$.00	f. Program Income	\$.00	g. TOTAL	\$.00	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____ b. NO. <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
a. Federal	\$.00																												
b. Applicant	\$.00																												
c. State	\$.00																												
d. Local	\$.00																												
e. Other	\$.00																												
f. Program Income	\$.00																												
g. TOTAL	\$.00																												
17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes," attach an explanation. <input type="checkbox"/> No																															
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED																															
a. Typed Name of Authorized Representative		b. Title	c. Telephone number																												
d. Signature of Authorized Representative		e. Date Signed																													

Previous Editions Not Usable

Authorized for Local Reproduction

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry: | Item: | Entry: |
|-------|--|-------|--|
| 1. | Self-explanatory. | 12. | List only the largest political entities affected (e.g., State, counties, cities). |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). | 13. | Self-explanatory. |
| 3. | State use only (if applicable). | 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. | 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. | 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. | 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 7. | Enter the appropriate letter in the space provided. | 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:
— "New" means a new assistance award.
— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. | | |
| 9. | Name of Federal agency from which assistance is being requested with this application. | | |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. | | |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. | | |

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A — BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Uncobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$

SECTION B — BUDGET CATEGORIES

Object Class Categories	GRANT PROGRAM FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	\$	\$	\$	\$	\$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$
7. Program Income	\$	\$	\$	\$	\$

Authorized for Local Reproduction

Standard Form 424A (4-89)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES						
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS		
8.	\$	\$	\$	\$		
9.						
10.						
11.						
12. TOTALS (sum of lines 8 and 11)	\$	\$	\$	\$		
SECTION D - FORECASTED CASH NEEDS						
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	
	\$	\$	\$	\$	\$	
13. Federal						
14. NonFederal						
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$	\$	
SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT						
(a) Grant Program	FUTURE FUNDING PERIODS (Years)					
	(b) First	(c) Second	(d) Third	(e) Fourth		
16.	\$	\$	\$	\$		
17.						
18.						
19.						
20. TOTALS (sum of lines 16 - 19)	\$	\$	\$	\$		
SECTION F - OTHER BUDGET INFORMATION (Attach additional Sheets if Necessary)						
21. Direct Charges:		22. Indirect Charges:				
23. Remarks						

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For *new applications*, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j — Show the amount of indirect cost.

Line 6k — Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A (continued)

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

U.S. Department of Health and Human Services

Certification Regarding

Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the January 31, 1989 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when HHS determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about:

- (1) The dangers of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and,
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

- (1) Abide by the terms of the statement; and,
- (2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

- (1) Taking appropriate personnel action against such an employee, up to and including termination; or
- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

Certification Regarding Debarment, Suspension, and Other
Responsibility Matters - Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transaction." provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

**Certification Regarding Debarment, Suspension, Ineligibility and
Voluntary Exclusion - Lower Tier Covered Transactions**
(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions. "without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans,
and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Organization

Authorized Signature	Title	Date
----------------------	-------	------

NOTE: If Disclosure Forms are required, please contact: Mr. William Sexton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200 Independence Avenue, SW, Washington, D.C. 20201-0001

FR Doc. 90-15323 Filed 6-29-90; 8:45 am]

BILLING CODE 4130-01-C

Registered

Monday
July 2, 1990

Part IV

Department of Agriculture

Forest Service

Minimum Fee for Special Use Authorizations; Intermountain Region; Notice

DEPARTMENT OF AGRICULTURE

Forest Service

Minimum Fee for Special Use Authorizations; Intermountain Region

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The Regional Forester for the Intermountain Region, which encompasses those National Forests in the States of Utah, Nevada, southern Idaho, western Wyoming, and portions of California and Colorado, gives notice of revised minimum annual rental fees for special use authorizations. As required by the Federal Land Policy and Management Act of 1976 (FLPMA), this fee is determined under sound business management principles. The general minimum fee is the least amount of annual rent that will be billed and collected for applicable special use authorizations on National Forest System lands within the Intermountain Region. A schedule for reviewing waived fees is also established. A Regional supplement to Forest Service Manual section 2715 incorporates these changes.

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT:

Frank Elder (801 625-5150) or Lynn Bidlack (801 625-5141).

SUPPLEMENTARY INFORMATION:

The Forest Service administers approximately 1,600 special use authorizations in the Intermountain Region that are subject to annual payment of a minimum rental fee (out of a total 7,100 authorizations). The current minimum rental fee of \$25.00 was established about 1981.

The Office of Management and Budget (OMB) Circular No. A-25, as amended and supplemented, requires Agencies to establish user charges based on sound business management principles and to the extent feasible in accordance with comparable commercial practices. Charges need not be limited to the recovery of costs; they may produce net revenues to the Government.

In 1964, the Bureau of the Budget (predecessor to OMB) issued further guidelines in the "National Resources User Charges Study," which provided for the use of Federal land as follows:

"... the Government should recover the fair market value for the use of Federal land resources. Competitive bidding will be used to establish the fair market value in all instances where an identifiable competitive interest exists. Where a competitive interest does not exist, fees should be comparable to those charged for the use of similar private lands. Fees and charges for long-term use

should be established in such a manner as will allow for periodic timely adjustment.

The 1976 passage of the Federal Land Policy and Management Act (Public Law 94-579, 90 Stat. 2743 at 2745) reinforced long-standing Congressional support of fair market value as a basis for fees. Section 102(a) of the Act states that "... it is the policy of the United States that ... the United States receive fair market value for the use of the public lands and their resources unless otherwise provided for by the statute" Title V provides specific direction that fees for right-of-way uses and grants should reflect fair market values.

In accordance with this Act and OMB directives, the Forest Service's special use regulations at 36 CFR 251.57 provide that special-use authorizations shall require "... the payment in advance of an annual rental fee as determined by the authorized officer. The fee will be based upon the fair market value of the rights and privileges authorized as determined by appraisal or other sound business management principles."

Special use authorizations for which a minimum fee is appropriate typically involve comparatively small areas of National Forest System lands. Generally, these uses provide benefits which are private and personal to the permit holder, rather than benefits to the general public. Examples include, but are not limited to, access roads, utility lines, domestic or irrigation water systems, signs, etc., which serve non-Federal lands. Other minimum fee uses serve certain segments of the general public, usually with an activity or event of short duration and without significant permanent improvements or facilities. Examples include, but are not limited to: community outings, service club sponsored events, and class reunions.

Fair market value may be determined by appraisal or other sound business management principles. Given the limited acreage and wide variation in the kinds of uses typical of minimum fee situations, use of individual appraisals would be inefficient and costly to the Government. Other appropriate methods for determining fees are competitive bids, investment basis, income basis, adjustments based on widely accepted economic indexes, and market analyses and studies.

In the past, minimum fee policies have provided no mechanism for periodic adjustment to reflect changes in economic conditions. The Forest Service believes that, in fairness to the public and permit holders and in response to Executive and Legislative direction, minimum fees need to be indexed for

adjustment at not more than 5 year intervals.

There may be situations where a special minimum fee is appropriate due to the unique nature of a proposed use or availability of credible market information supporting a different fee basis. Though such cases are expected to be few in number, Forest Supervisors are authorized to base minimum fees for unique kinds of uses on alternative methods, after consultation with and concurrence of the Regional Review Appraiser.

Minimum Fee Increase

The Intermountain Region announces a new minimum fee of \$45.00. This amount is selected by reviewing the minimum fees in surrounding Forest Service Regions. The Northern Region of the Forest Service recently increased the minimum fee from \$25 to \$45, by application of the cumulative change in the Implicit Price Deflator—Gross National Product (IPD—GNP) index. This widely accepted index is published in the Survey of Current Business of the U.S. Department of Commerce, Bureau of Economic Analysis. The Forest Service and other agencies use this index in developing and adjusting a variety of other fees, such as linear rights-of-way and recreation residences. The minimum fee for the Rocky Mountain Region of the Forest Service is also established at \$45. Adopting \$45 as the minimum annual fee for special use permits in the Intermountain Region will achieve consistency throughout the states of Idaho (which contains National Forest lands administered by both the Intermountain and Northern Regions) and Colorado and Wyoming (which contain National Forest lands administered by both the Intermountain and Rocky Mountain Regions). This consistent \$45 minimum annual fee will now apply throughout North and South Dakota, Nebraska, Colorado, Wyoming, Montana, Idaho, Utah, and Nevada.

In the future, the Forest Service will review the Intermountain Region's general minimum fee at 5 year intervals beginning with 1995 (for implementation with calendar year 1996 fees), and update the fee by application of the cumulative percentage of change in the IPD—GNP index as of June 30 of the review year.

Implementation

The new minimum fee will be implemented for new and reissued (transferred) special use authorizations effective immediately upon date of this publication. Holders of outstanding special use authorizations will be

notified that the new minimum fee will be effective with billings for calendar year 1991 fees. This procedure will provide approximately 6 months of advance notice to current permit holders.

Fee Exemption/Waivers

This change in minimum special use fees has no effect on special use authorizations exempt from fees under law or regulation.

Secretary of Agriculture's Regulation 36 CFR 251.57(b) provides that fees may be waived under certain conditions. This change in minimum fees has no effect on these procedures for fee waiver. Authority for decisions on fee waiver applications remains with the authorized officer. However, no partially waived (reduced) fee shall be less than the established minimum fee.

Some outstanding special use authorizations were issued many years ago under certain authorities which

provided for free use. These authorities are no longer available to the Forest Service as they are inconsistent with the Secretary of Agriculture's current Regulations and the intent of Congress that the United States receive fair market value for the use of its lands and facilities. Many of these special use authorizations fall within the kinds of uses and situations for which a minimum fee should be charged under current direction. As a part of implementing the new minimum fee, all existing free special use authorizations will be reviewed within 5 years of the date of this publication to determine if the fee for the use appropriately qualifies for a waiver under current regulations. All permit holders in this category will be provided notice of this review.

Copies of this notice are being mailed to holders of existing special use authorizations that are currently categorized as free permits under earlier

authorities, and to holders that are currently charged a minimum fee. A copy will also be sent to anyone requesting one from the contacts listed in this notice.

This decision is subject to appeal by affected holders of authorizations pursuant to 36 CFR 251. Any appeal of this decision must be fully consistent with 36 CFR 251.90, Content of Notice of Appeal, including the reasons for appeal, and must be filed with the Chief, U.S. Forest Service—USDA, P.O. Box 96090, Washington, DC 20090-6090, within 45 days from the date of this notice. A copy of the notice of appeal must be filed simultaneously with the Regional Forester, Intermountain Region, 324 25th Street, Ogden, Utah 84401.

Dated: June 22, 1990.

Robert E. Joslin,

Deputy Regional Forester, Resources.

[FR Doc. 90-15289 Filed 6-29-90; 8:45 am]

BILLING CODE 3410-11-M

Register

Monday
July 2, 1990

Part V

Department of Transportation

Urban Mass Transportation Administration

Transit Bus and Van Materials Selection; Recommended Fire Safety Practices; Notice

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

[Docket No. 90-A]

Recommended Fire Safety Practices for Transit Bus and Van Materials Selection

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice and request for public comment.

SUMMARY: The Urban Mass Transit Administration (UMTA) is issuing for public comment recommendations for testing flammability and smoke emission characteristics of materials used in the construction of transit buses and vans. These recommendations are based on the Transportation Systems Center's "Proposed Guidelines for Flammability and Smoke Emission Specifications," a version of which the rapid rail transit and light rail transit industry uses on a voluntary basis. The guidelines have been prepared to enable the transit industry to select materials for buses and vans that minimize the effect of fires. Comments will be considered to determine if the Recommended Practices should be modified.

DATES: Comments must be received by October 1, 1990.

ADDRESSES: Comments must be submitted to UMTA Docket No. 90-A, U.S. Department of Transportation, Urban Mass Transportation Administration, room 9316, 7th Street SW., Washington, DC 20590. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Franz K. Gimmler, Deputy Associate Administrator for Safety, or Roy Field, Office of Safety, room 6432, 400 7th Street SW., Washington, DC 20590. Telephone: (202) 366-2896.

SUPPLEMENTARY INFORMATION

A. Overview

This Notice provides recommendations for testing flammability and smoke emission characteristics of materials used in the construction of transit buses and vans.

The recommendations are set forth in a table, printed below. Before that table, however, is a "Background" section explaining the genesis of this Notice; a "Scope" section indicating that the Recommendations are designed to affect the selection practices for materials procured; and an "Application" section indicating the types of vehicles covered by the Notice. The next section deals with the Recommended Procedures, and is followed by the table. Following the table is a list of notes referenced in the table, and following that are the source of test procedures listed in the table. The final section includes definitions of terms used in the notes and the table.

B. Background

The threat of fire in transit buses and vans is of major concern considering the large number of passengers carried on these vehicles and the high capital investment involved. An analysis, conducted by the Urban Mass Transportation Administration (UMTA), indicated that fire and smoke incidents represent 2 percent of all bus incidents. Although the occurrence of severe transit bus fires is rare, the potential for fire is always present, and once ignition occurs and a fire spreads, life threatening situations may develop.

Recent trends in the design and construction of transit buses and vans have resulted in the increased use of flammable, non-metallic materials such as plastics and elastomers for transit bus components. In many instances, these materials are more flammable than the existing materials they replace and therefore increase the fire threat in the vehicles. This fire threat can be reduced or limited by minimizing adverse effects from the use of these non-metallic materials in the manufacture of transit buses and vans and their components. This may be accomplished by considering, in the selection process, the flammability and smoke emission characteristics of the materials. The choice of materials in some transit buses and vans shows that the fire threat associated with these non-metallic materials may not be recognized or appreciated by designers. The flammability and smoke emission characteristics of materials may have been overlooked and the materials may have been selected for other desirable properties such as wear, impact resistance, maintainability, weight, etc.

In 1973, UMTA, as part of its mission to improve mass transportation, initiated an effort to evaluate and

improve fire safety in transit vehicles. In 1974, "Proposed Guidelines for Flammability and Smoke Emission Specifications" (Guidelines) of materials used in transit vehicles were developed by the Transportation Systems Center (TSC) for UMTA. On August 14, 1984, UMTA formally published in 49 FR 32482, "Recommended Fire Safety Practices for Rail Transit Materials Selection." These "Recommended Practices" are used by rail operators on a voluntary basis. The "Recommended Fire Safety Practices for Transit Bus and Van Materials Selection" have been prepared to enable the transit industry to select materials for buses and vans that minimize the effect of fires.

C. Scope

The recommended Fire Safety Practices for Transit Bus and Van Materials Selection are directed at improving the selection practices for interior materials procured for new vehicles and the retrofit of existing vehicles. Adoption of these recommended fire safety practices will help to minimize the fire threat in these vehicles and, thereby, reduce the injuries and damage resulting from fires.

D. Application

This document provides recommended fire safety practices for testing the flammability and smoke emission characteristics of materials used in the construction of transit buses and vans. Vehicles considered as transit buses and vans are those used for urban, suburban, rural and specialized transit services. Types covered by these recommended practices are revenue (passenger carrying) vehicles that are placed in mass transit service by a grantee of UMTA. Some of the functions in the Recommendations may not apply to all vehicles (e.g., not all vehicles have windscreens).

E. Recommended Test Procedures and Performance Criteria

(a) The materials used in transit buses and vans should be tested according to the procedures and performance criteria set forth in Table 1.

(b) Transit agencies should require certification that combustible materials to be used in the construction of vehicles have been tested by a recognized testing laboratory, and that the results are within the recommended limits.

BILLING CODE 4910-57-M

6A

TABLE 1. RECOMMENDATIONS FOR TESTING THE FLAMMABILITY AND SMOKE EMISSION CHARACTERISTICS OF TRANSIT BUS AND VAN MATERIALS

Category	Function of Material	Test Procedure	Performance Criteria
Seating	Cushion 1:2:5:9; ^a	ASTM D-3675	$I_s \leq 25$
		ASTM E-662	$D_s (1.5) \leq 100; D_s (4.0) \leq 200$
	Frame 1:5:8	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s (1.5) \leq 100; D_s (4.0) \leq 200$
	Shroud 1:5	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s (1.5) \leq 100; D_s (4.0) \leq 200$
	Upholstery 1:2:3:5	FAR 25.853 (Vertical)	Flame Time ≤ 10 sec; burn length ≤ 6 inch
		ASTM E-662	$D_s (4.0) \leq 250$ coated $D_s (4.0) \leq 100$ uncoated
Panels	Wall 1:5	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s (1.5) \leq 100; D_s (4.0) \leq 200$
	Ceiling 1:5	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s (1.5) \leq 100; D_s (4.0) \leq 200$
	Partition 1:5	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s (1.5) \leq 100; D_s (4.0) \leq 200$
	Windscreen 1:5	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s (1.5) \leq 100; D_s (4.0) \leq 200$
	HVAC Ducting 1:5	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s (4.0) \leq 100$
	Window 4:5	ASTM E-162	$I_s \leq 100$
		ASTM E-662	$D_s (1.5) \leq 100; D_s (4.0) \leq 200$
	Light Diffuser 5	ASTM E-162	$I_s \leq 100$
		ASTM E-662	$D_s (1.5) \leq 100; D_s (4.0) \leq 200$
Flooring	Wheel Well and Structural 6	ASTM E-119	Pass
	Tile Covering 1:5	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s (1.5) \leq 100; D_s (4.0) \leq 200$
	Carpeting 7	ASTM E-648	C.R.F. ≥ 0.5 w/cm ²
Insulation	Thermal 1:2:5	ASTM E-162	$I_s \leq 25$
		ASTM E-662	$D_s (4.0) \leq 100$
	Acoustic 1:2:5	ASTM E-162	$I_s \leq 25$
		ASTM E-662	$D_s (4.0) \leq 100$
Miscellaneous	Fire Wall 6	ASTM E-119	Pass
	Exterior Shell 1:5	ASTM E-162	$I_s \leq 35$
		ASTM E-662	$D_s (1.5) \leq 100; D_s (4.0) \leq 200$

^aRefers to Notes on Table 1.

BILLING CODE 4810-57-C

Notes:

1. Materials tested for surface flammability should not exhibit any flaming running or flaming dripping.
2. The surface flammability and smoke emission characteristics of a material should be demonstrated to be permanent by washing, if appropriate, according to FED-STD-191A Textile Test Method 5830.
3. The surface flammability and smoke emission characteristics of a material should be demonstrated to be permanent by dry-cleaning, if appropriate, according to ASTM D-2724. Materials that cannot be washed or dry cleaned should be so labeled and should meet the applicable performance criteria after being cleaned as recommended by the manufacturer.
4. For double window glazing, only the interior glazing should meet the material requirements specified herein; the exterior need not meet those requirements.
5. ASTM E-662 maximum test limits for smoke emission (specific optical density) should be measured in either the flaming or non-flaming mode, depending on which mode generates the most smoke.
6. Flooring and fire wall assemblies should meet the performance criteria during a nominal test period determined by the transit property. The nominal test period should be twice the maximum expected period of time, under normal circumstances, for a vehicle to come to a complete, safe stop from maximum speed, plus the time necessary to evacuate all passengers from a vehicle to a safe area. The nominal test period should not be less than 15 minutes. Only

one specimen need be tested. A proportional reduction may be made in dimensions of the specimen provided that it represents a true test of its ability to perform as a barrier against vehicle fires. Penetrations (ducts, piping, etc.) should be designed against acting as conduits for fire and smoke.

7. Carpeting should be tested in accordance with ASTM E-648 with its padding, if the padding is used in actual installation.

8. Arm rests, if foamed plastic, are tested as cushions.

9. Testing is performed without upholstery.

F. Referenced Fire Standards

The source of test procedures listed in Table 1 are as follows:

(1) Leaching Resistance of Cloth, FEC-STD-191A-Textile Test Method 5830.

Available from: General Services Administration Specifications Division, Building 197, Washington Navy Yard, Washington, DC 20407.

(2) Federal Aviation Administration Vertical Burn Test, FAR-25-853.

Available from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(3) American Society for Testing Materials (ASTM).

(a) Surface Flammability of Materials Using Radiant Heat Energy Source, ASTM E-162;

(b) Surface Flammability for Flexible Cellular Materials Using a Radiant Heat Energy Source, ASTM D-3675;

(c) Fire Tests of Building Construction and Materials, ASTM E-119;

(d) Specific Optical Density of Smoke Generated by Solid Materials, ASTM E-662;

(e) Bonded and Laminated Apparel Fabrics, ASTM D-2724.

Available from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

In all instances, the most recent issue of the document or the revision in effect at the time of request should be employed in the evaluation of the material specified herein.

G. Definition of Terms

1. Flame spread index (I_s) as defined in ASTM E-162 is a factor derived from the rate of progress of the flame front (F_s) and the rate of heat liberation by the material under test (Q), such that $I_s = F_s \times Q$.

2. Specific optical density (D_s) is the optical density measured over unit path length within a chamber of unit volume produced from a specimen of unit surface area, that is irradiated by a heat flux of 2.5 watts/cm² for a specified period of time.

3. Surface flammability denotes the rate at which flames will travel along surfaces.

4. Flaming running denotes continuous flaming material leaving the site of the burning material at its installed location.

5. Flaming dripping denotes periodic dripping of flaming material from the site of burning material at its installed location.

Issued on: June 26, 1990.

Brian W. Clymer,
Administrator.

[FR Doc. 90-15271 Filed 6-29-90; 8:45 am]

BILLING CODE 4910-57-M

Federal Register

Monday
July 2, 1990

Part VI

Office of Personnel Management

48 CFR Part 1602, et al.

**Federal Employees Health Benefits
Acquisition Regulation; Revision of
Contract Clauses and Community Rating
Practices; Final Rulemaking**

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1602, 1615, 1616, 1622,
1632 and 1652

RIN 3206-AD78

Federal Employees Health Benefits Acquisition Regulation; Revision of Contract Clauses and Community Rating Practices

AGENCY: U.S. Office of Personnel
Management.

ACTION: Final rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is issuing a regulation which recognizes the increasing diversity in community rating practices within the insurance industry and, specifically, within the Federal Employees Health Benefits Program (FEHBP). The regulation also expands and clarifies OPM's FEHBP price negotiation policy. At the same time, OPM is taking the opportunity to amend some of the required contract clauses found in Section 1652 of the Federal Employees Health Benefits Acquisition Regulation (FEHBAR) to better reflect the specific needs of the FEHBP.

EFFECTIVE DATES: Sections effective January 1, 1990, and to be applied to the 1990 FEHB Program contracts: 1615.804-72, 1652.215-70, and 1652.216-70. All other sections effective August 1, 1990, and to be applied to the 1991 FEHB Program contracts.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, (202) 632-3772.

SUPPLEMENTARY INFORMATION: On October 20, 1989, OPM published proposed regulations (54 FR 43089) to recognize those portions of Public Law 100-517, The Health Maintenance Organization Amendments of 1988, which impact on the FEHBP. Public Law 100-517 expands the community rating methodology options available to Federally qualified health maintenance organizations, known as comprehensive medical plans (CMPs) in the FEHBP. Accordingly, OPM is modifying its regulations to recognize the increasing diversity in community rating practices. The regulation also expands and clarifies OPM's FEHBP price negotiation policy. In addition, the regulation amends required contract clauses found in Section 1652 of the FEHBAR to better reflect the specific needs of the FEHBP, to add a new Federal Acquisition Regulation (FAR) clause requiring carriers to maintain a drug-free workplace, and to delete unnecessary or inappropriate FAR clauses.

OPM received 16 responses, 5 from CMPs in the FEHBP; 1 from a law firm representing a number of FEHB Program community rated CMPs and an association of managed care plans; 1 national trade association and 2 health care systems representing a number of CMPs in the FEHBP; one employee organization plan in the FEHBP; an organization that provides administrative services to a number of FEHB employee organization plans; 1 association composed of FEHB employee organization plans; 2 law firms representing a total of 7 FEHB employee organization plans and 1 underwriter; 1 Government-wide plan and 1 private individual. The respondents were generally supportive of OPM's efforts to improve the administration of the FEHBP. However, many were uncertain about the effects of some of the provisions. Their comments and suggestions follow, along with OPM's discussion of the reasons for accepting or rejecting them.

General Provisions

One commenter questioned whether the regulation is intended to control FEHBP costs or is being issued solely for the purpose of incorporating the new Health Maintenance Organization (HMO) community rating legislation. The regulation is not being promulgated solely for the purpose of incorporating the HMO amendments. Through the regulation, OPM is seeking to obtain rates which are reasonable and equitable for the FEHBP group. The broader objective of controlling overall FEHBP costs is being addressed through FEHBP reform legislation which is presently being studied by OPM and the Congress.

Two carriers commented that the regulation should not be effective until the 1991 contract year. We agree that regulatory requirements promulgated after the effective date of a contract or modification should not be applied to that contract or modification insofar as they will result in a liability to the contractor, will constitute a substantial change in practice, or will be difficult for the carrier to implement immediately. Consequently, with the exception of the provisions on defective community rating, we have changed the effective date of the regulation to January 1, 1991. Inasmuch as no community rated carrier objected to the proposed 1990 effective date for the provisions relating to defective community rating, and those provisions reduce the potential liability to the carriers and mitigate problems experienced by them, we are proceeding with an effective date of January 1, 1990, for the provisions pertaining to penalties

for defective community rating and solely affecting those plans. If a CMP believes, and OPM agrees, that a requirement would impact on the CMP's rates for that contract period, consideration will be given to adjusting its effective date.

The proposed rule required carriers to produce only advertising material that is truthful and not misleading by using advertising guidelines, including those prepared by the National Association of Insurance Commissioners (NAIC); provided additional guidance about types of actions that would constitute misleading, deceptive or unfair advertising; and provided remedies available to the Government in the event a carrier's advertising material is not truthful or is misleading (1652.203-70). Four respondents believe that the current, more general, guidelines on advertising offer Federal enrollees ample protection and are preferable to the NAIC "Rules Governing Advertising of Accident and Sickness Insurance with Interpretive Guidelines." As reflected in 1652.203-70(a), it is OPM's policy to ensure that enrollees have reasonable expectations regarding health benefits plans and are not misled through a carrier's literature about the benefits of the carrier's own or another FEHB plan. While we agree that, overall, the current FEHBAR provides protection to enrollees, the present language standing alone may be open to misinterpretation. Therefore, we believe that additional criteria in the form of guidelines appropriate to insurance advertising in general (those produced by NAIC) and to the FEHBP in particular (those produced by OPM) are necessary. We believe such additional guidance will enhance the carriers' ability to comply with OPM's advertising policy as well as OPM's ability to assure carrier compliance. As OPM wants to address the more relevant and practical problems encountered most often in FEHB carrier advertising, the advertising clause has been changed to show that carriers should use the FEHB Supplemental Literature Guidelines as their primary source of guidance and should use the NAIC "Rules Governing Advertising of Accident and Sickness Insurance with Interpretive Guidelines" if additional guidance is needed.

Two commenters believe the NAIC "Rules Governing Advertising of Accident and Sickness Insurance with Interpretive Guidelines" are directed principally at individual insurance marketing practices and OPM should distinguish those NAIC guidelines which are irrelevant or impractical. The NAIC guidelines are applicable to group as

well as individual accident and sickness insurance. We believe the NAIC guidelines have practical application to the FEHBP; however, carriers may ask OPM for assistance when they are unsure of the relevancy or practicality of a particular guideline.

One commenter believes OPM is premature in incorporating the FEHB Supplemental Literature Guidelines reference, in view of the fact that the contract is subject to negotiation, and two commenters believe that OPM should publish the referenced guidelines in regulation. The NAIC and FEHB guidelines to be used by the carriers in preparing supplemental literature have been furnished to the carriers. The guidelines will be reevaluated and furnished to the carriers in advance of each negotiation period. Because reevaluation may result in minor changes, OPM believes that it would be inappropriate to publish them in regulation.

One commenter questioned whether carriers must adhere to the guidelines at FEHBP 1603.702, which are not mentioned in the proposed regulation, in addition to the NAIC guidelines. The guidelines found at 1603.702 and the NAIC and FEHB guidelines contained in the clause at 1652.203-70 are not mutually exclusive. Each complements the others and must be adhered to by FEHBP carriers.

One community rated plan asked whether OPM will review and approve materials, including those being distributed on Federal sites. Agencies control contacts between employees and carriers and decide whether and how much contact there will be. While we encourage agencies to permit carriers to address groups of employees during open season on the structure of their plans' benefits, methods of obtaining services, and similar matters, an agency may permit the use of its facilities or services for the distribution only of officially authorized, carrier-supplied information on health benefits plans. (In this regard, agencies treat labor organization carriers in accordance with current policies on labor-management relations in the Federal Service as specified in chapter 71 of title 5, United States Code.) Therefore, FEHB contracts are being negotiated to provide that carrier-supplied information distributed at federal facilities must be approved in advance by OPM. For purposes of approval, fee-for-service carriers need submit only material intended for wide distribution (e.g., nationally or regionally); however, we reserve the option of reviewing locally-distributed

material. To ensure that other communications which identify a carrier's participation in the FEHB Program (e.g., radio/TV/newspaper advertising) are in compliance with FEHBP 1603.70, carriers are advised to use the guidelines; however, carriers will not be required to get advance approval of material that is not distributed at Federal facilities.

Five respondents were concerned about the application of the penalties for, and due process in the event of, noncompliance with FEHB requirements (1652.203-70(b)). One respondent believes the penalties for noncompliance are too severe and that termination of the contract is not warranted for violations of advertising policy. We note OPM's obligation to enrollees to correct and prevent repetition of misleading, deceptive or unfair advertising. The regulatory penalties are listed and, except for the most egregious carrier actions, will be applied in graduated degrees of severity. If a carrier, after repeated offenses, continues to violate the regulatory requirements, action to terminate the plan may be warranted to protect the interests of Federal enrollees. Nevertheless, although due process is always assumed in FEHBP regulations, we have amended the provision to provide for notification and opportunity to respond. Further, in any case where OPM takes action to terminate a plan, the withdrawal of approval provisions of 5 CFR 890.24 apply.

OPM has also amended the requirement to insert the clause at 1652.203-70 in all subcontracts that exceed \$25,000. The requirement now refers only to the carrier's contract with its underwriter, if any, and to contracts with subcontractors directly involved in the preparation or distribution of marketing material.

One respondent requested that OPM specify in the clause at 1652.204-71(c) the particular coordination of benefits guidelines and rules to be followed by FEHB carriers. Another respondent commented that the NAIC guidelines are subject to individual interpretation that will impede uniformity. We have changed the regulation so that it specifically states that in coordinating benefits, carriers must follow the order of precedence established by the Model Guidelines for Coordination of Benefits (COB) promulgated by the NAIC. The order of precedence section of the NAIC guidelines is widely known in the insurance industry and has been referenced in the FEHB brochures for a number of years. Further, the COB contract clause has been based

historically on the guidelines' order of precedence. OPM believes that the very specific nature of the order of precedence in the guidelines serves to standardize order of precedence determinations. Further, from the standpoint that OPM would have to modify the contract whenever the NAIC guidelines change, it is impractical to restate the guidelines in a contract clause. Attaching the guidelines' order of precedence to the contract as an appendix rather than explicitly restating them has the added advantage of providing OPM flexibility in negotiating effective dates.

One respondent believes that changes in the guidelines implemented after January 1 of any given year should not be required earlier than the beginning of the following contract term. The clause now makes it clear that this is OPM's intent. When a change in the guidelines occurs, OPM will notify the carriers by letter and will negotiate the date they are to become effective.

Two commenters responded that the deficiencies in a plan's COB recoupment of overpayment procedures are more appropriately dealt with in an audit context than by the contracting officer's case-by-case review of allowable charges. We have clarified the section. OPM does not intend for the carriers to consult with the contracting officer on each unreimbursed COB overpayment in advance to determine whether or not it is a properly chargeable benefit expense. Rather, a carrier must be able to demonstrate allowability if, for instance, a COB overpayment is questioned during an audit.

A number of community rated carriers are concerned about the requirement for reporting COB savings, noting that under community rated contracts COB savings are not charged to specific accounts. OPM has clarified this requirement for community rated carriers so that they are not required to report COB savings but must be able to demonstrate that they have a system in place for coordinating benefits for all groups and can provide appropriate overall COB statistics.

Provisions Relating Primarily to Community Rated Carriers

Several plans stated that they were uncertain whether the standard methods of community rating are still permitted. In order to avoid any misunderstanding, one plan suggested that OPM's regulation refer to existing Department of Health and Human Services (HHS) regulations on community rating. The standard methods of community rating, i.e., traditional community rating and

community rating by class, as well as the new concept of adjusted community rating, are acceptable rating methods for the FEHBP. The community rating methods of the FEHBP are consistent with, but not limited to, the requirements of HHS. While we have not referenced the HHS regulations, we will accommodate the community rating concepts contained therein to the extent possible consistent with the needs of the FEHBP.

One community rated plan questioned the use of the term "PMPM" (per member per month) in combination with the words "revenue requirement" in a definition of community rate (1602.170-2(a)) and believes that the revenue requirement should not be limited by PMPM calculations. In considering this and related comments, we have concluded that the term "revenue requirement" is ambiguous. Most plans base their rates on a per member per month capitation rate. However, there are some plans that use a standard set of two (or three) tiered rates, and adjust them for each group according to the group's demographics. Such a system is conceptually equivalent to the use of a capitation rate. The regulations now make it clear that such a system is acceptable to OPM.

One carrier suggested that OPM amend the definition of adjusted community rate (1602.170-2(b)) to state that it is a community rate that has been adjusted for the expected use of medical resources (rather than medical utilization) of the FEHBP group. We have made this change to recognize the broader, more explicit nature of permissible adjustments to the community rate.

The same carrier believes that the regulation should indicate that the prohibition on retroactive adjustments of the rate based on actual experience, utilization or cost applies only to group-specific adjustment factors, that is, the expected use of medical resources. The carrier agrees that subsequent changes to the adjustment made for the Federal group's expected use of medical resources based on actual experience, utilization or FEHBP cost should be forbidden, but believes that changes to the plan's estimated community rate should be allowed. The HMO law prohibits retroactive adjustments based on actual experience. OPM's regulation makes it clear that no upward adjustment in the rate is allowed on the basis of actual costs incurred, actual benefits provided, or actual size or composition of the FEHBP group (1652.216-70(b)(5)). OPM will continue the policy of allowing an adjustment in

the FEHBP rates if the actual community rates of the plan differ from the estimated community rates on which the proposed FEHBP rates were based.

Two carriers suggested that OPM clarify the term "benefit payment" in its description of "actual paid claims" under the definition of experience rate (1602.170-6). In view of the fact that capitation payments are not strictly benefit payments, OPM agrees with the carriers that the term should be more precise. The regulation now states that actual paid claims include any actual or negotiated benefits payments made to providers of medical services for the provision of health care.

A number of commenters expressed concern with the requirements for similarly sized subscriber groups (SSSGs) in 1602.170-11. Specifically, some believe that limiting the definition to two groups is not sufficient for groups of fewer than 1,500 subscribers because it does not represent a significant portion of the plan's total enrollment. The respondents believe that if the number of FEHBP subscribers is fewer than 1,500 the plan should be compared with all groups that are within some range of the FEHBP enrollment. In this respect, we believe that two SSSGs will enable us to capture sufficient information on which to determine whether the proposed rate is based on the carrier's community rate.

The commenters also believe that the SSSGs should not be limited to those which renew in January or during the effective period of the January rate. We agree that limiting the SSSGs to those that renew in January or the effective period of the January rates is too restrictive and have dropped that requirement. OPM now requires that the SSSGs must have been renewed during the plan's fiscal year. The fiscal year is the time period for which the carrier's budget is established. Adjustments will be made for different renewal dates among the SSSGs' rates and the OPM rate to make them consistent.

Several respondents expressed the following concerns and requests for clarification of the term "substantially the same benefit package." They questioned whether the two groups closest in size to the FEHB group could use different rating methods. What the specific data requirements related to prices offered to the SSSGs and the demographic and utilization characteristics of those groups will be. What happens when no other groups have substantially the same basic benefit package as the FEHB group, when the groups contract for periods longer than 12 months, and when the

nearest group is so far distant from the FEHB group that it is not the same economic area.

The two SSSGs may use different rating methodologies. However, OPM anticipates that the plans' systems of establishing rates will generally result in both SSSGs having the same methodology. In instances where this is not the case, OPM will review the methodologies used for the SSSGs and the criteria for selecting them in order to determine whether the methodology used for the FEHBP is appropriate. Also, OPM will negotiate benefits packages in a manner that should result in a number of groups having substantially the same benefits package. Each rate must be based on the overall capitation or its equivalent. The rate will be negotiated by OPM and the carrier during rate negotiations. If the SSSGs contract for more than 12 months, OPM will determine what adjustment to the rate is applicable for a 12-month period. For plans with fewer than 1,500 contracts, we will not ask for the data but will require that the plan maintain it in accordance with the records retention clause of the contract in the event that it is requested by OPM's actuaries and/or auditors. The answers to the above questions, as well as specific data related to prices offered to SSSGs and demographic and utilization characteristics of those groups, are lengthy and OPM needs the flexibility to adapt to changes in the insurance industry from year to year. Consequently, it is not appropriate to publish this information in regulation. Detailed information concerning rating procedures will be provided to the carriers in the rate instruction package for each contract period.

One respondent wanted to know whether the SSSGs' rates could be relied on as a remedy if it is later determined that a carrier's criteria were not reasonable or that a carrier had discounted the rates quoted to some of its commercial groups. Generally, the SSSGs' rates could be expected to be relied on as a remedy. However, we do not want to limit our options to the SSSGs' rates. The corrected FEHB rates would be negotiated based on the circumstances in each case.

The same respondent wanted to know whether carriers that apply different methodologies to different groups are required to seek approval for such criteria prior to the contract year during which the rate is applied. No preapproval will be required.

One carrier suggested that the phrase "total subscriber enrollment" be clarified to read "total number of

contracts" (1602.170-11). We have made this clarifying change. Two respondents believe that OPM should not limit the SSSGs to non-governmental units because governmental units are often the closest in size to the Federal group. OPM has reconsidered the exclusion of governmental groups from the SSSGs and has decided to allow comparison with governmental groups so long as those groups are community rated.

One commenter asked whether OPM would prohibit CMPs from using discounting and other methods of rating with groups other than a plan's SSSGs. OPM's primary objective is to obtain rates which are reasonable and equitable for the FEHBP group. In determining the FEHBP plans' rating, OPM will examine only the rating of the plans' SSSGs. This does not in any way diminish the need for plan compliance with guidelines promulgated by the HHS. However, monitoring the plans' compliance with HHS laws and regulations rests with that agency.

One carrier believes that OPM is moving away from paying by contract (self or self and family) and asked how the change to per member per month payments will affect the different rating methodologies. Since the PMPM capitation has always been used by OPM as a basis for the self and self and family contract rates, we question the carrier's comment. We believe that the regulation is clear in this regard.

One carrier believes OPM should allow for adjustments to the community rate based on an industry factor and that the SSSG requirement is inappropriate since the two similarly sized groups may have entirely different demographic factors and/or industry factors. OPM's experience has shown that backup data on industry factors is unreliable. Consequently, we do not recognize adjustments to the community rate based on this factor. Insofar as demographic factors are concerned, it appears that the commenter has misunderstood OPM's intent. OPM's community rating policies begin with the capitation. The carrier may adjust the capitation for demographic factors so long as the adjustment is consistent with approved community rating practices.

The commenter further suggests that OPM's proposed approach to base the community rate on a capitation that applies to a "combination of the subscriber groups" (1602.170-2) is arbitrary and may not comply with guidelines followed by Federally qualified HMOs nor with state filings made by many HMOs participating in FEHBP governing the HMO underwriting process. We do not agree that OPM's proposed approach to community rating

is arbitrary. We have made every effort to be consistent with HHS guidelines. The "combination of subscriber groups" referred to in the definition can be interpreted to mean all groups that are community rated by the plan. The definition gives OPM flexibility in that it takes into consideration the fact that not all plans recognize all of the legitimate community rating practices available to Federally qualified HMOs.

One carrier suggested that OPM compare non-guaranteed to non-guaranteed accounts and guaranteed to guaranteed accounts when two SSSGs that meet the stated criteria do not exist. The carrier believes the comparison to non-governmental accounts of similar guarantee status and similar benefits that renew in a different month, with adjustments made for the later renewal date, would be advantageous. To accommodate the carrier's concerns, we have modified the regulation so that the two SSSGs may be any group that renews during the same fiscal year, with adjustments made for different renewal dates.

The same carrier believes the regulation should specify that premium rates among the three compared accounts be equal only under traditional community rating but that they must be comparable for all accounts under the other rating methods. OPM does not expect the rates to be equal even under traditional community rating. The Certificate of Accurate Pricing for Community Rated Plans (1615.804-70) requires that the FEHBP rates be developed in a manner consistent with (not equal to) the rating methodology and structure used to rate the carrier's SSSGs.

Another carrier believes it is inappropriate to collect utilization information on the comparison accounts from an organization using traditional community rating because the information has no bearing on the rates charged to the accounts. We agree with the carrier and do not expect to collect utilization data for traditional community rating.

One commenter requested clarification of the "basic reasonableness test" referred to in 1615.802(b)(1). This is an OPM test for reasonable price to determine which plans need further review. It is confidential information and is not appropriate for release outside OPM.

Two respondents raised questions about 1615.802, stating that at the time the FEHBP rate is submitted, appropriate information on the SSSGs would not be available. Three carriers believe the section is not specific enough about the nature of the data

required and wanted to know what would be required for larger plans in submitting additional pricing, utilization and demographic data.

For plans having 1,500 or more contracts at the time of the plan's proposal and for plans having fewer than 1,500 that do not use the SF-1412, OPM will request backup data that will support adjustments to the capitation rate or its equivalent. Data requested will be similar to that currently requested. Additional data needs will be determined once the methodologies employed by the plan become known. We will also require the data pertaining to SSSGs as soon as it becomes available. This would normally be toward the end of the contract term, after rate negotiations with the plan have been concluded. This data will be analyzed when OPM's actuaries reconcile the plan's rates. Specifics about the exact nature of the data required will be sent to the plans in the rate instructions. For plans with fewer than 1,500 contracts that use the SF-1412, we will not ask for the data, but will require that the plan maintain it in accordance with the records retention clause of the contract. OPM's actuaries and the audit staff will have the option of obtaining the data on request. We have modified 1615.802(b)(2) to reflect these changes.

One respondent wanted OPM to confirm that a carrier may use SF-1412 if the Federal group is smaller than 1,500 subscribers only if the rating methodology does not involve the use of adjusted community rating. Any plan whose FEHBP group is smaller than 1,500 subscribers may use SF-1412, even if it uses adjusted community rating. As explained above, the carrier must retain the backup data.

In addition, we have changed 1615.802(b)(3) to require the carrier to identify necessary price adjustments when it is later determined that different market prices were actually used for the SSSGs, and to apply the adjustments against its FEHBP rates for the subsequent contract period(s). The proposed rule implied that the carrier might not be required to identify and apply price adjustments in some cases. Note also the substitution of the words "FEHBP rate" for "community rate" in this section. This change has been made in response to a carrier's remark that the price adjustments pertain only to the FEHBP rates and not to the entire plan population.

One respondent suggested that an HMO be given discretion to waive the rate reduction in the following year when different market prices are

actually used for the SSSCs and also recommended a waiver option if the rate the preceding year was too low for reasons other than underestimation. Another commenter asked whether the carrier might seek a one-time payment of the amount due. While these options to resolve differences between the proposed market price and the actual market price are not specifically set out in regulation, they have always been and continue to be appropriate in certain circumstances as determined by OPM on a case-by-case basis.

One commenter believes that the steps necessary to experience rate the Federal group should be more fully explained. Rather than provide technical details in regulation, we think it is more appropriate to provide carriers with the necessary information in the rate instructions sent to FEHBP carriers at the time of negotiations for the contract period.

Another commenter wanted confirmation that the opportunity for a carrier to offer OPM the same price as is offered SSSGs is merely an alternative way for pricing a community rated contract and not a test to be applied to all community rated carriers to determine whether the FEHBP contract has been accurately priced. OPM confirms this point. Nevertheless, it is our intent to obtain an "equivalent price" consistent with the regulation, not necessarily the "same price."

One respondent wanted assurance that group-specific demographic and utilization information for non-Federal groups will be requested only if relevant to OPM's evaluation of a proposed rate or to the auditors' evaluation of the rate and that such confidential information will not be disclosed to the public. The sole reason for OPM's requesting this information is to evaluate a proposed rate. OPM neither requests nor desires information that is irrelevant to this objective. However, any information submitted to OPM may be subject to public disclosure. Carriers must identify each item they believe is exempt from disclosure under the Freedom of Information Act (FOIA). They must also specify which exemption applies. OPM will decide on disclosure only when a request for information is made. In making that decision, OPM will consider the justification for non-disclosure that was submitted by the carrier. If OPM decides that any specific item of information that the carrier believes is exempt is not exempt from disclosure, OPM will so inform the carrier before it is disclosed.

For consistency with 1652.215-70, we have changed the phrase "accurate and complete for the current year" in the

Certificate of Accurate Pricing for Community Rated Plans (1615.804-70) to "accurate, complete, and current as of the date this certificate is executed." We have also added at the asterisk at the bottom of the certificate the sentence, "The rate must be either the actual rate in effect for the current contract term or a quoted rate for the next contract term." And, in response to a comment that the references to 48 CFR Chapter 16 and the FEHBP contract at the end of the certificate contradict the specific language that precedes it, we have cited the references earlier in the certificate to make it clear that the requirements that follow are the requirements of 48 CFR Chapter 16 and the FEHBP contract.

One carrier believes that the proposed change to 1615.804-70 should not be adopted because the current certificate is adequate to accommodate the changes in rating methodologies permitted under the proposed rules. It is our opinion that the current certificate is not broad enough to meet OPM's needs in administering the FEHBP contracts. The proposed certificate will enhance OPM's ability to enforce the community rating policies of the FEHBP Program.

One respondent suggested that OPM remove the words "to the best of my knowledge and belief" from the certificate and add a sentence reminding the carrier of the consequences of a false statement. OPM cannot expect carrier representatives to certify to data that is beyond their knowledge and belief at the time of certification. Furthermore, the consequences of making a false statement to an agency of the Federal government under 18 U.S.C. 1001 are well known to the FEHBP carriers, and a warning such as that suggested by the commenter is not warranted in this certification.

The same respondent wanted to know who determines whether to accept a rating methodology proposed by a carrier that differs from the methodology used to rate the SSSGs if the carrier proposes it. The commenter is concerned that the carrier will request a rate more preferential to it than to the Government. Adoption of this regulation in no way prevents OPM from negotiating a lower rate when the data obtained by OPM suggests that a lower rate is more appropriate.

The respondent also asked whether there would continue to be a need for the contingency reserve since it appears that all rate adjustments will be made through the next year's rates. The contingency reserve will continue to exist. Rate adjustments will be made in order to draw down excess contingency reserves.

One commenter stated that some of its clients would like the experience rating remedy for defective pricing (1652.215-70(a) of the FEHBP) reinserted in the regulation. OPM's experience has been that community rated carriers generally do not have adequate data to retroactively experience rate the contract after a community rate has been found defective. Consequently, we have not reinserted this remedy in the regulation.

One community rated carrier did not understand how community rated CMPs could apply the principle of separate accounting of FEHBP investment income required by the Investment Income clause (1652.215-71). The carrier and another community rated carrier did not understand how the Accounting and Allowable Cost clause (1652.216-71), which requires a detailed annual accounting statement audited by a CPA, applies to its contract. The carriers should note the introductory sentences to the clauses which state that the clauses are to be inserted in FEHBP contracts based on cost analysis. Experience rated contracts are based on cost analysis (FEHBP 1615.802(a)). Community rated contracts are based on price analysis (FEHBP 1615.802(b)). Therefore, the clauses do not apply to community rated CMPs.

The clause in 1652.216-70 provides that if the FEHBP contract is not renewed, neither the Government nor the carrier is entitled to any adjustment for the difference between the estimated and actual market price. Two commenters did not understand why nonrenewal of the contract impacts the rate reconciliation and settlement process.

OPM's experience has been that it is difficult to get adequate data from plans when they have terminated. Further, in the event a plan goes out of business, there are no rates to reconcile. In the opinion of OPM, the most reasonable solution is for both the Government and the carrier to bear the risk of a carrier's termination.

Provisions Relating Primarily to Experience Rated Carriers

One carrier suggested that the clause on investment income (1652.215-71(a)) specifically require the carrier to maximize "overall" investment income. In the absence of instructions to the contrary, maximization of overall investment income is implied. Consequently, the addition of the word "overall" is unnecessary.

In a related issue, OPM has reevaluated the provision in paragraph (a) concerning carrier investments in

maturities of 1 to 3 years' duration. In light of the establishment of letter of credit procedures, carriers should be holding a minimum amount of funds outside of their letter of credit account. As these funds should remain liquid, the timeframes for maturity dates of investments are unnecessary. Therefore, we have deleted the provision concerning the duration of maturities.

The Investment Income clause at 1652.215-71(d) requires investment income lost to the FEHB Fund as a result of the carrier's charging unallowable, unallocable, or unreasonable charges against the contract to be paid from the first day of the calendar year following the year in which the charge was made. Further, paragraph (f) of the clause requires the carrier to credit the Special Reserve for income due and that all amounts payable shall bear lost investment income compounded semi-annually. One carrier commented that it is likely the charges found to be improper on audit will be charges which the carrier had reason to believe would be accepted. The carrier stated that assessment of interest from the beginning of the contract term following the contract term in which the charge is made penalizes the carrier for errors that it had not reasonably been in a position to anticipate and further penalizes the carrier for disputing the charge. Another carrier stated that there is no precedent in government procurement for compounding an interest obligation. In the FEHBP there is an interaction between program management and procurement that is unique. Section 8909(c) of title 5, United States Code, provides that money in the FEHB Fund be invested and reinvested; investment income in the Fund earns compounded interest. FEHB funds withdrawn and held by a carrier also must be invested and reinvested (5 CFR 890.201(a)(8)). When a carrier uses FEHB funds for charges which are unallowable, unallocable, and unreasonable, the FEHB Fund loses investment income which would have earned compounded interest had it not

been withdrawn. The carrier making those charges is responsible for making the Fund whole.

One community rated carrier believes that the FEHBP should be more specific as to whether the detailed annual accounting statement required by 1652.216-71(a) applies to community rated contracts. The introductory paragraph before the clause states that the clause shall be inserted in all FEHB contracts based on cost analysis. FEHBP 1615.802(b) calls for the use of cost analysis in contracts where premiums and subscription income are determined on the basis of experience rating. Paragraph (b) of the same section calls for the use of price analysis in contracts where premiums and subscription income are determined on the basis of community rating. This is a basic premise on which the FEHBP price negotiation policy is based. It is essential that FEHBP carriers understand it. The commenter's contract is community rated and is, therefore, based on price analysis; accordingly, the Accounting and Allowable Cost clause does not apply to its contract.

One respondent commented that a 90-day deadline for submission of the annual accounting statement in 1652.216-71(a)(1) may be too short in some instances to ensure accuracy of the statement. We have reviewed this requirement and will provide for the submission of the annual accounting statement through appropriate contract language.

Four respondents were unclear about the scope of the CPA audit required in 1652.216-71(a)(2) and believe the 180-day timeframe on submission of an audit is too short. OPM has reevaluated the provision for a specific CPA audit and has deleted the requirement for CPA audit of the Plan's Summary Statement of FEHBP Financial Operations and Balance Sheet. The paragraph now clarifies that the most recent financial statement for the overall activity of the carrier and underwriter, if any, are required. OPM believes that 180

days is sufficient time in which to submit this statement.

One commenter took exception to the requirement in the "Definition of Costs" that costs be "actual" and "necessary." The commenter questioned the validity of the definition in the absence of a waiver from FAR requirements. The requirement that costs be actual and necessary has been in the FEHBP since its first publication in May, 1987, and does not pertain to the proposed regulation change. We will, therefore, comment only to say that OPM believes that it is reasonable and in the best interest of the FEHB Program to ensure that the costs charged by carriers to the contract are actual, necessary, and reasonable costs. OPM's authority to enforce this requirement is the FEHBP itself, approved by the Director of OPM and the Office of Federal Procurement Policy under the Office of Management and Budget in 1987.

The same commenter suggested that OPM address erroneous benefits payments in the paragraph on benefits costs at 1652.216-71(b)(2)(i). The commenter, citing the potential cost to carriers if erroneous benefits payments are not allowable, believes that OPM should include a statement that erroneous benefits payments made in good faith are chargeable to the contract if diligent efforts are made to recover the payments. We understand the commenter's concern. However, we do not believe it is appropriate to discuss erroneous benefits payments in this paragraph. In accordance with the introductory sentence in paragraph (b)(2), the issue will be addressed elsewhere in the contract.

One respondent objected to the inclusion of premium taxes under administrative expenses in subparagraph 1652.216-71(b)(2)(ii). OPM acquisition regulations have included premium taxes under administrative expenses since 1981. While OPM's treatment of premium taxes is not a change of policy brought about by the proposed regulation, to clear up any

confusion in the matter, we have amended the clause to reflect the special status of premium taxes, which are administrative expenses categorized as "Other Charges" on the accounting statement.

One carrier noted that OPM should clarify that the Certification of Accounting Statement Accuracy (1652.216-71(c)) is not intended to impose a different standard for allocation of costs than is currently found in the FAR. The carrier's interpretation is correct. We have addressed this concern by amending the certification to read that the accounting statement is, among other things, in conformance with OPM guidelines; that costs are allowable and allocable in accordance with the terms of the contract, FEHBP and FAR; and that credits made or owed in accordance with the terms of the contract and applicable cost principles have been included.

Three commenters questioned the intent of the Notice of Significant Events clause, particularly in light of revisions to paragraph (b), which authorizes OPM to take action against a carrier upon learning of certain "significant events." The commenters are concerned that OPM is requiring notification of the events even though their occurrence may not impede the carrier's performance under the FEHBP contract. OPM intends that the carrier notify us only if the significant event materially impacts on the carrier's ability to fulfill its contractual obligations under the FEHBP.

One respondent objected to the use of the term "CPA" in 1652.222-70(a)(13). As a result, we have replaced the term with the more generic description: "the independent accounting firm contracted with by the carrier to provide an opinion on its annual financial statements." In addition, we are requiring that the firm ascribe to the standards of the American Institute of Certified Public Accountants.

Two commenters expressed concern about the requirement that carriers notify OPM of reservations or qualifications expressed by the independent accounting firm in the context of its review of the carrier's financial statements (1652.222-70(a)(13)). The commenters consider it improper for OPM to consider as significant any notes and extraneous remarks which could be interpreted as insignificant or immaterial exceptions or reservations. In addition, one commenter believes that the carriers should not be required to release the Management Letter, which the commenter asserts is written solely for internal purposes.

Paragraph (a) of the Notice of Significant Events clause, which has been in the FEHBP since 1987 and remains unchanged except that the clause is now applicable to all FEHB carriers, is very clear in defining a significant event as "any occurrence or anticipated occurrence that might reasonably be expected to have a material effect upon the carrier's ability to meet the obligations under this contract * * *." Accordingly, OPM requires only notes and extraneous remarks that bring into question the carrier's ability to fulfill its contractual obligations under the FEHBP. OPM requests the Management Letter in relation to this Significant Events clause, but it is not mandated by the FEHBP.

One carrier responded that OPM should eliminate the requirement for notification of significant events by fee-for-service carriers and defer to state insurance departments responsible for regulating insurance companies. OPM deems it necessary to establish its own standards in order to fulfill its responsibilities under the FEHB law, as well as for consistency in its treatment of FEHB plans.

The carrier also asserted that all account information of a CMP is confidential and proprietary and that the information must be protected by OPM from any form of release, including release pursuant to the Freedom of Information Act. As previously stated, any information submitted to OPM may be subject to public disclosure. Carriers must identify items they believe are exempt from disclosure under the FOIA, specifying which exemption applies to that item and giving full justification for their belief that the exemption applies. If OPM decides that any item of information is not exempt from disclosure, it will inform the carrier before disclosing it.

Three commenters believe the sanction for OPM to withhold subscription income from the carrier (1652.222-70(b)(4)) should be enforced only if the carrier is no longer obligated to continue to pay plan benefits. OPM cannot agree to such a condition. Certain actions, such as carrier/underwriter fraud, are so egregious that withholding of subscription income may be warranted. Under such circumstances OPM would expect the carrier to find the means to honor its claims obligations. It is always understood in the FEHB Program that actions against a carrier begin with a series of warnings, with more severe actions taken only after the carrier has shown an unwillingness or inability to correct the situation. Consequently, we have amended paragraph (b) to make it

clear that OPM's actions against the carrier will be proportional to the seriousness of the event.

A carrier responded that the requirement to insert the clause required by the Significant Events clause at 1652.222-70(d) in all subcontracts should apply only to subcontracts for plan underwriting and administration services. OPM agrees that few of the events would make a difference when occurring in a subcontract. Therefore, we have changed the provision so that it is applicable to subcontracts appropriate to plan type.

One carrier was confused about the cross reference to "section 3.7" under Subcontracts at 1652.244-70(f). The carrier was reading the proposed clause change out of context. In reading FEHB Program regulations, it is essential that the reader refer to the basic regulation of which the proposed change is a part. The introductory paragraph to the basic regulatory section in the FEHBP (1652.244-70) states that the clause is to be inserted in the FEHB contract. Any reference in a contract clause to another section of the contract would necessarily refer to the contract section. The heading "Service Charge" further serves to identify the reference as a section of the contract.

Another commenter asked about the requirement that the carrier notify the contracting officer in advance of entering into a subcontract if both the amount of the subcontract charged to the FEHBP exceeds \$100,000 and the amount of the subcontract to be charged to the FEHBP exceeds 25% of the total cost of the subcontract as it applies to community rated plans which do not make charges directly to the FEHBP (1652.244-70(a)). The carrier understood "25% of the total cost of the contract" to mean "25% of the plan's total enrollment." For community rated carriers, we have amended the provision to reference amounts applicable to, rather than charged to, the FEHBP.

One respondent suggested that section 1652.246-70(b) on FEHB inspection be modified to apply only to subcontracts for underwriting and administrative services. The final regulation reflects this change.

Two commenters believe that OPM should not take remedial action to protect enrollees when a carrier fails to fulfill contractual requirements (1652.249-70(b)(3)) without complying with due process requirements of the Fifth Amendment. As we previously stated, actions against a carrier are imposed with increasing degrees of severity appropriate to the situation at hand, the most severe being plan

termination. OPM will not take action, including a termination action, without offering the plan an opportunity to respond. In addition, for all OPM actions short of termination, carriers are entitled to a review process under the Disputes Clause. Once OPM notifies a carrier of its intent to withdraw approval under 5 U.S.C. 8902, the carrier has the right of appeal to OPM as provided at 5 CFR 890.204.

One commenter suggested that contracts in which less than 25% of the dollar amount of the contract will be allocated to the FEHBP not be considered subcontracts under the Program. We have not adopted this suggestion to redefine "subcontractor" (1602.170-12); although some subcontractors need not be subject to certain regulatory requirements because of their size, they are, nonetheless, subcontractors within the intent of FAR.

In responding to the proposed regulation, a number of commenters expressed an interest in meeting with OPM to discuss the proposed changes. We met with all parties that requested a meeting and have made clarifying changes in the Supplementary Information as a result of those meetings. While no changes were made to the regulation in response to the suggestions received, we will be periodically evaluating our experience under the regulation and will consider the suggestions in making future regulatory changes.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not

have a significant impact on a substantial number of small entities because it provides the opportunity for many smaller contractors to submit less documentation than previously required of them and, also, simply makes changes to reflect current practices within the FEHBP.

List of Subjects in 48 CFR Parts 1602, 1615, 1616, 1622, 1632 and 1652

Administrative practice and procedure, Government contracts, Health insurance.

U.S. Office of Personnel Management.
Constance Berry Newman,
Director.

Accordingly, OPM is amending 48 CFR chapter 16 as follows:

1. The authority citations for parts 1602, 1615, 1616, 1622, 1632, and 1652 continue to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

PART 1602—DEFINITION OF WORDS AND TERMS

2. In subpart 1602.1, 1602.170-2 and 1602.170-6 are revised, 1602.170-11 is redesignated as 1602.170-12 and a new 1602.170-11 is added to read as follows:

1602.170-2 Community rate.

(a) "Community rate" means a rate of payment based on a per member per month capitation rate or its equivalent that applies to a combination of the subscriber groups for a comprehensive medical plan. This capitation rate or its equivalent is a market price consistent with FAR 15.804-3. References in this subchapter to "price analysis" or "established market price" relating to the applicability of policy and contract clauses refer to comprehensive medical plans using community rates.

(b) "Adjusted community rate" means a community rate which has been adjusted for expected use of medical resources of the FEHBP group. An adjusted community rate is a prospective rate and can not be retroactively revised to reflect actual experience, utilization, or costs of the FEHBP group.

1602.170-6 Experience rate.

"Experience rate" means a rate for a given group that is the result of that group's actual paid claims, administrative expenses, retentions, and estimated claims incurred but not reported, adjusted for benefit modifications, utilization trends, and economic trends. Actual paid claims include any actual or negotiated benefits payments made to providers of medical services for the provision of health care such as capitation not adjusted for specific groups, per diems, and Diagnostic Related Group (DRG) payments.

1602.170-11 Similarly sized subscriber groups.

"Similarly sized subscriber groups" means a comprehensive medical plan's two employer groups which best meet all of the following conditions:

(a) Have total number of contracts at the time of the rate proposal arithmetically closest in size to the previous September's FEHB subscriber enrollment, as determined by OPM;

(b) Purchase substantially the same basic benefit package proposed for the Federal group; and

(c) Are renewed during the plan's fiscal year. Contracts with a governmental authority or program or any health benefits program for

employees of states, political subdivisions of states and other public entities may be used if they are community rated.

1602.170-12 [Redesignated from 1602.170-11]

PART 1615—CONTRACTING BY NEGOTIATION

3. In subpart 1615.8, section 1615.802(b) is revised; sections 1615.804-70 and 1615.804-71 are revised; a new section 1615.804-72 is added; in section 1615.805-70, paragraph (c) is redesignated as paragraph (d); and a new paragraph (c) is added to read as follows:

1615.802 Policy.

(b)(1) Price analysis for contracts where premiums and subscription income are based on community rates (market prices). For contracts with fewer than 1,500 FEHBP subscribers, OPM may rely on a basic reasonableness test in combination with a carrier's representation that the market price submitted on SF 1412, Claim for Exemption from Submission of Certified Cost or Pricing Data, is based on the price offered to its similarly sized subscriber groups (see FEHBP 1602.170-11).

(2) For contracts with 1,500 FEHBP subscribers or more and for contracts with fewer than 1,500 FEHBP subscribers that do not use the SF 1412, OPM shall require that the plan provide the data and methodology used to determine the FEHBP rates. OPM shall also require the data and methodology used to determine the rates for the plan's similarly sized subscriber groups.

(3) Contracts will also be subject to a price adjustment if it is determined subsequently that different market prices were actually used for the similarly sized subscriber groups as defined in 1602.170-11. Such adjustments shall be identified by the carrier and applied against its FEHBP rate(s) for the subsequent contract period(s).

1615.804-70 Certificate of accurate pricing for community rate plans.

When a carrier proposes a community rate as defined by FEHBP 1602.170-2, the Contracting Officer shall require the carrier to execute the Certificate of Accurate Pricing for Community Rated Plans contained in this section unless the carrier has been exempt from filing certified cost or pricing data. The Certificate shall be executed each time a proposal is made.

CERTIFICATE OF ACCURATE PRICING FOR COMMUNITY RATED PLANS

This is to certify that, to the best of my knowledge and belief, the cost or pricing data submitted, either actually or by specific identification in writing, to the Contracting Officer or the Contracting Officer's representative or designee in support of the _____ FEHBP rates were developed in accordance with the requirements of 48 CFR Chapter 16 and the FEHBP contract and are accurate, complete, and current as of the date this certificate is executed. The FEHBP rates were developed in a manner consistent with the rating methodology used to rate the Carrier's similarly sized subscriber groups (see FEHBP 1602.170-11) and approved by OPM, except where the Carrier has elected to use the alternative methodology for adjusted community rating specified by OPM or other methodology approved by OPM.

Firm _____
Name _____
Title _____
Signature _____
Date of execution _____

* Identify the time period to which the rates apply. The rate must be either the actual rate in effect for the current contract term or a quoted rate for the next contract term.

(End of Certificate)

1615.804-71 Supplemental representation for SF 1412.

Carriers with less than 1,500 FEHBP subscribers may request an exemption from submission of certified cost and pricing data. The request for exemption is made on SF 1412, Claim for Exemption from Submission of Certified Cost or Pricing Data (see FAR 53.301-1412), which contains a representation that all the statements made on or attached to the SF 1412 are correct. In addition to the representation made on the SF 1412, the Contracting Officer shall require the carrier to execute the Supplemental Representation for SF 1412 shown below. The carrier shall attach the supplemental representation to the SF 1412.

SUPPLEMENTAL REPRESENTATION FOR SF 1412

The Carrier represents that the market price used to determine the _____ FEHBP rates is no greater than the market price quoted to the Carrier's similarly sized subscriber groups (see FEHBP 1602.170-11); that adjustments made to the market price were consistent with the rating methodology used to rate the Carrier's similarly sized subscriber groups; and that the adjustments were developed in accordance with the requirements of 48 CFR Chapter 16 and the FEHBP contract.

Firm _____
Name _____
Title _____
Signature _____
Date of execution _____

* Identify the time period to which the rates apply. The rate must be either the actual rate

in effect for the current contract term or a quoted rate for the next contract term.

1615.804-72 Rate reduction for defective pricing or defective cost or pricing data.

The clause set forth in 1652.215-70 shall be inserted in all FEHBP contracts based on established market price.

1615.805-70 Carrier investment of FEHB funds.

(c) The carrier is required to credit income earned from its investment of FEHB funds to the special reserve on behalf of the FEHB Program. If a carrier fails to invest excess FEHB funds or to credit any income due the contract, for whatever reason, it shall return or credit any investment income lost to OPM or the special reserve.

PART 1616—TYPES OF CONTRACTS

4. In part 1616, the words "catalog or" are removed wherever they appear in the table of contents and the text of subparts 1616.1 and 1616.2.

PART 1622—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

5. In part 1622, section 1622.103-70 is revised to read as follows:

1622.103-70 Contract clause.

The clause at 1652.222-70 shall be inserted in all FEHBP contracts.

PART 1632—CONTRACT FINANCING

6. In part 1632, a new subpart 1632.8 consisting of section 1632.806-70 is added to read as follows:

Subpart 1632.8—Assignment of Claims

1632.806-70 Contract clause.

The clause set forth in 1652.232-73 shall be inserted in all FEHBP contracts.

PART 1652—CONTRACT CLAUSES

7. Section 1652.203-70 is revised to read as follows:

1652.203-70 Misleading, deceptive, or unfair advertising.

As prescribed in 1603.703, the following clause shall be inserted in all FEHBP contracts:

MISLEADING, DECEPTIVE, OR UNFAIR ADVERTISING (JAN 1991)

(a) The Carrier agrees that any advertising material, including that labeled promotional material, marketing material, or supplemental literature, shall be truthful and not misleading.

(b) Criteria to assess compliance with paragraph (a) of this clause are available in the FEHB Supplemental Literature Guidelines

which are developed by OPM and should be used, along with the additional guidelines set forth in FEHBP 1603.702, as the primary guide in preparing material; further guidance is provided in the NAIC "Rules Governing Advertising of Accident and Sickness Insurance With Interpretive Guidelines." Guidelines are periodically updated and provided to the Carrier by OPM.

(c) Failure to conform to paragraph (a) of this clause may result in a reduction in the service charge, if appropriate, and corrective action to protect the interest of Federal Members. Corrective action will be appropriate to the circumstances and may include, but is not limited to the following actions by OPM:

(1) Directing the Carrier to cease and desist distribution, publication, or broadcast of the material;

(2) Directing the Carrier to issue corrections at the Carrier's expense and in the same manner and media as the original material was made; and

(3) Directing the Carrier to provide, at the Carrier's expense, the correction in writing by certified mail to all enrollees of the Plan(s) that had been the subject of the original material.

(d) Egregious or repeated offenses may result in the following action by OPM:

(1) Suspending new enrollments in the Carrier's Plan(s);

(2) Providing Enrollees an opportunity to transfer to another plan; and

(3) Terminating the contract in accordance with Section 1.15, Renewal and Withdrawal of Approval.

(e) Prior to taking action as described in paragraphs (c) and (d) of this clause, the OPM will notify the Carrier and offer an opportunity to respond.

(f) The Carrier shall incorporate this clause in subcontracts with its underwriter, if any, and other subcontractors directly involved in the preparation or distribution of such advertising material and shall substitute "Contractor" or other appropriate reference for the term "Carrier."

(End of Clause)

8. Subpart 1652.2 is amended by revising the clause in 1652.204-70, and by revising 1652.204-71 to read as follows:

1652.204-70 Contractor Records Retention.

CONTRACTOR RECORDS RETENTION (JAN 1991)

Notwithstanding the provisions of section 5.7 (FAR 52.215-2(d)) "Audit-Negotiation" and the SF 1412, the Carrier will retain and make available all records applicable to a contract term that support the annual statement of operations and the rate submission for that contract term for a period of 5 years after the end of the contract term to which the records relate, except that individual enrollee and/or patient claim records shall be maintained for 3 years after the end of the contract term to which the claim records relate.

(End of Clause)

1652.204-71 Coordination of Benefits.

As prescribed in 1604.7001, the following clause shall be inserted in all FEHBP contracts:

COORDINATION OF BENEFITS (JAN 1991)

(a) The Carrier shall coordinate the payment of benefits under this contract with the payment of benefits under Medicare, other group health benefits coverages, and the payment of medical and hospital costs under no-fault or other automobile insurance that pays benefits without regard to fault.

(b) The Carrier shall not pay benefits under this contract until it has determined whether it is the primary carrier or unless permitted to do so by the Contracting Officer.

(c) In coordinating benefits between plans, the Carrier shall follow the order of precedence established by the NAIC Model Guidelines for Coordination of Benefits (COB) as specified by OPM.

(d) Where (1) the Carrier makes payments under this contract which are subject to COB provisions; (2) the payments are erroneous, not in accordance with the terms of the contract, or in excess of the limitations applicable under this contract; and (3) the Carrier is unable to recover such COB overpayments from the Member or the providers of services or supplies, the Contracting Officer may allow such amounts to be charged to the contract; the Carrier must be prepared to demonstrate that it has made a diligent effort to recover such COB overpayments.

(e) COB savings shall be reported by experience rated carriers each year along with the Carrier's annual accounting statement in a form specified by OPM.

(f) Changes in the order of precedence established by the NAIC Model Guidelines implemented after January 1 of any given year shall be required no earlier than the beginning of the following contract term.

(End of Clause)

9. Sections 1652.215-70 and 1652.215-71 are revised to read as follows:

1652.215-70 Rate Reduction for Defective Pricing or Defective Cost or Pricing Data.

As prescribed in 1615.804-72, the following clause shall be inserted in contracts based on established market price:

RATE REDUCTION FOR DEFECTIVE PRICING OR DEFECTIVE COST OR PRICING DATA (JAN 1990)

If any rate established in connection with this contract was increased because (1) the Carrier furnished cost or pricing data that were not complete, accurate, or current as certified in the Certificate of Accurate Pricing for Community Rated Plans [FEHBP 1615.804-70]; (2) the Carrier furnished pricing data that were not accurate as represented on the Claim for Exemption from Submission of Certified Cost or Pricing Data [SF 1412]; (3) the Carrier developed FEHBP rates with a rating methodology and structure inconsistent with that used to develop rates for similarly sized subscriber groups [see FEHBP 1602.170-11] as certified in the

Certificate of Accurate Pricing for Community Rated Plans or represented in the Supplemental Representation for SF 1412; or (4) the Carrier furnished data or information of any description that were not complete, accurate, and current—then, the rate shall be reduced in the amount by which the price was increased because of the defective data or information.

(End of Clause)

1652.215-71 Investment Income.

As prescribed in 1615.805-71, the following clause shall be inserted in all FEHBP contracts based on cost analysis:

INVESTMENT INCOME (JAN 1991)

(a) The Carrier shall invest and reinvest all FEHB funds on hand that are in excess of the funds needed to promptly discharge the obligations incurred under this contract. The Carrier shall seek to maximize investment income with prudent consideration to the safety and liquidity of investments.

(b) All investment income earned on FEHB funds shall be credited to the Special Reserve on behalf of the FEHBP.

(c) When the Contracting Officer concludes that the Carrier failed to comply with paragraphs (a) or (b) of this clause, the Carrier shall credit the Special Reserve with investment income that would have been earned, at the rate(s) specified in paragraph (f) of this clause, had it not been for the Carrier's noncompliance. "Failed to comply with paragraphs (a) or (b)" means: (1) Making any charges against the contract which are not allowable, allocable, or reasonable; or (2) failing to credit any income due the contract and/or failing to place excess funds, including subscription income and payments from OPM not needed to discharge promptly the obligations incurred under the contract, refunds, credits, payments, deposits, investment income earned, uncashed checks, or other amounts owed the Special Reserve, in income producing investments and accounts.

(d) Investment income lost as a result of unallowable, unallocable, or unreasonable charges against the contract shall be paid from the 1st day of the contract term following the contract term in which the unallowable charge was made and shall end on the earlier of: (1) The date the amounts are returned to the Special Reserve (or the Office of Personnel Management); (2) the date specified by the Contracting Officer; or, (3) the date of the Contracting Officer's Final Decision.

(e) Investment income lost as a result of failure to credit income due the contract or failure to place excess funds in income producing investments and accounts shall be paid from the date the funds should have been invested or appropriate income was not credited and shall end on the earlier of: (1) The date the amounts are returned to the Special Reserve (or the Office of Personnel Management); (2) the date specified by the Contracting Officer; or, (3) the date of the Contracting Officer's Final Decision.

(f) The Carrier shall credit the Special Reserve for income due in accordance with this clause. All amounts payable shall bear lost investment income compounded

semiannually at the rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraphs (d) and (e) of this clause. Thereafter, the rate shall be the rate applicable for each 6-month period as fixed by the Secretary until the amount is paid.

(g) The Carrier shall incorporate this clause into agreements with underwriters of the Carrier's FEHB plan and shall substitute "underwriter" or other appropriate reference for the term "Carrier."

(End of Clause)

10. In subpart 1652.2, the introductory text in 1652.216-70 is revised, paragraphs (b)(2) through (b)(4) of the clause therein are revised and new paragraphs (b)(5) and (b)(6) are added, and 1652.216-71 is revised to read as follows:

1652.216-70 Accounting and price adjustment.

As prescribed in 1616.270, the following clause shall be inserted in all FEHBP contracts based on established market price:

ACCOUNTING AND PRICE ADJUSTMENT (JAN 1990)

• • • • •

(b) • • •
(2) The subscription rates agreed to in this contract are derived from the market price, which is a per member per month (PMPM) capitation or its equivalent that applies to a combination of subscriber groups. The market price established in this contract may be an estimate of the Carrier's actual market price that will be in effect during the contract period.

(3) If, for the contract period, the Carrier establishes an actual market price higher than the market price established for this contract and the higher market price is actually paid by the similarly sized subscriber groups (see FEHBP 1602.170-11), the Carrier may include an adjustment to the next contract period's FEHB rates to recover the difference between the estimated market price and the actual market price.

(4) If for the contract period, the Carrier establishes an actual market price lower than the market price established for this contract and the lower market price is actually paid by similarly sized subscriber groups, the Carrier shall reimburse the Fund, for example, by reducing the next contract period's FEHB rates to reflect the difference between the estimated market price and the actual market price.

(5) No upward adjustment in the rate established for this contract will be allowed or considered by the Government or will be made by the Carrier in this or in any other contract period on the basis of actual costs incurred, actual benefits provided, or actual size or composition of the FEHB group during this contract period.

(6) In the event this contract is not renewed, neither the Government nor the

Carrier shall be entitled to any adjustment or claim for the difference between the estimated and the actual market price, PMPM capitation or revenue requirement.

(End of Clause)

1652.216-71 Accounting and Allowable Cost.

As prescribed in 1616.271, the following clause shall be inserted in all FEHBP contracts based on cost analysis:

ACCOUNTING AND ALLOWABLE COST (JAN 1991)

(a) Annual Accounting Statement.

(1) The Carrier, not later than the date specified by the contract, shall furnish to OPM for that contract period an accounting of its operations under the contract. The accounting shall be in the form prescribed by OPM and shall include, among other things, a Balance Sheet and a Summary Statement of FEHBP Financial Operations. The Summary Statement of FEHBP Financial Operations shall include the following items for each option provided by the contract:

(i) Subscription income received and accrued (including amounts received from the Contingency Reserve);

(ii) Health benefits charges paid and accrued;

(iii) Administrative expenses and other charges paid and accrued;

(iv) Income on investments;

(v) Other adjustments;

(vi) Sum of items (i) minus (ii) minus (iii) plus (iv) plus or minus (v).

(2) The Carrier shall have its most recent financial statement and that of its underwriter, if any, audited by an accounting firm that ascribes to the standards of the American Institute of Certified Public Accountants. The report shall be submitted to OPM not later than 180 days after the end of the contract period.

(3) Based on the results of either the independent audit or a Government audit, the Carrier's annual accounting statements may be (i) adjusted by amounts found not to constitute allowable costs; or (ii) adjusted for prior overpayments or underpayments.

(b) Definition of costs.

(1) The allowable costs chargeable to the contract for a contract period shall be the actual, necessary and reasonable amounts incurred with proper justification and accounting support, determined in accordance with the terms of this contract, Subpart 31.2 of the Federal Acquisition Regulation (FAR) and Subpart 1631.2 of the Federal Employees Health Benefits Acquisition Regulation (FEHBP) applicable on the first day of the contract period.

(2) In the absence of specific contract terms to the contrary, contract costs shall be classified in accordance with the following criteria:

(i) *Benefits.* Benefit costs consist of payments made and liabilities incurred for covered health care services on behalf of FEHBP subscribers, less any refunds, rebates, allowances or other credits received.

(ii) *Administrative expenses.* Administrative expenses consist of all allocable, allowable and reasonable

expenses incurred in the adjudication of subscriber benefit claims or incurred in the Carrier's overall operation of the business. Unless otherwise stated in the contract, administrative expenses include, in part: all taxes (except that premium taxes are considered "other charges"), insurance and reinsurance premiums, medical and dental consultants used in the adjudication process, concurrent or managed care review when not billed by a health care provider and other forms of utilization review, the cost of maintaining eligibility files, legal expenses incurred in the litigation of benefit payments and bank charges for letters of credit. Administrative expenses exclude the cost of carrier personnel, equipment, and facilities directly used in the delivery of health care services, which are benefit costs, and the expense of managing the FEHBP investment program which is a reduction of investment income earned.

(iii) *Investment income.* The Carrier is required to invest and reinvest all funds on hand, including any in the Special Reserve or any attributable to the reserve for incurred but unpaid claims, which are in excess of the funds needed to discharge promptly the obligations incurred under the contract. Investment income represents the net amount earned by the Carrier after deducting investment expenses as a result of investing the FEHBP funds. The direct or allocable indirect expenses incurred in managing the investment program, such as consultant or management fees are chargeable against the investment income earned.

(iv) *Other charges.*—(A) *Mandatory statutory reserves.* Charges for mandatory statutory reserves are not allowable unless specifically provided for in the contract. When the term "mandatory statutory reserve" is specifically identified as an allowable contract charge without further definition or explanation, it means a requirement imposed by State law upon the Carrier to set aside a specific amount or rate of funds into a restricted reserve that is accounted for separately from all other reserves and surpluses of the Carrier and which may be used only with the specific approval of the State official designated by law to make such approvals. The amount chargeable to the contract may not exceed an allocable portion of the amount actually set aside. If the statutory reserve is no longer required for the purpose for which it was created, and these funds become available for the general use of the Carrier, a pro rata share based upon FEHBP's contribution to the total Carrier's set aside shall be returned to the FEHBP in accordance with FAR 31.201-5.

(B) *Premium taxes.* When the term "premium taxes" is used in the contract without further definition or explanation, it means a tax imposed by State or local statutes upon the Carrier's gross or net premiums received.

(c) *Certification of Accounting Statement Accuracy.*

(1) The Carrier shall certify the annual accounting statement in the form set forth in paragraph (c)(3) of this clause. The certificate shall be signed by the chief executive officer and the chief financial officer of the Carrier.

(2) The Carrier shall require an authorized agent of its underwriter, if any, also to certify the annual accounting statement.

(3) The certificate required shall be in the following form:

Certification of Accounting Statement Accuracy

This is to certify that I have reviewed this accounting statement and to the best of my knowledge and belief:

1. The statement was prepared in conformity with the guidelines issued by the Office of Personnel Management and fairly presents the financial results of this contract period in conformity with those guidelines;

2. The costs included in the statement are allowable and allocable in accordance with the terms of the contract and with the cost principles of the Federal Employees Health Benefits Acquisition Regulation and the Federal Acquisition Regulation;

3. Income, rebates, allowances, refunds and other credits made or owed in accordance with the terms of the contract and applicable cost principles have been included in the statement;

4. If applicable, the letter of credit account was managed in accordance with 31 CFR part 205, 5 CFR part 890, 48 CFR chapter 16, and OPM guidelines.

Carrier Name: _____

Name of Chief Executive Officer
(Type or Print) _____

Name of Chief Financial Officer
(Type or Print) _____

Signature of Chief Executive Officer _____

Signature of Chief Financial Officer _____

Date Signed _____

Date Signed _____

Underwriter: _____

Name and Title of Responsible Corporate
Official (Type or Print): _____

Signature of Responsible Corporate Official: _____

Date Signed: _____

(End of Certificate)

(End of Clause)

11. In 1652.222-70, the introductory text is revised, paragraphs (a)(12) and (a)(13) are added to the clause, and paragraphs (b) and (c) of the clause are revised to read as follows:

1652.222-70 Notice of significant events.

As prescribed in 1622.103-70, the following clause shall be inserted in all FEHBP contracts.

NOTICE OF SIGNIFICANT EVENTS (JAN 1991)

(a) * * *

(12) Any fraud, embezzlement or misappropriation of FEHB funds; or

(13) Any written exceptions, reservations or qualifications expressed by the

independent accounting firm (which ascribes to the standards of the American Institute of Certified Public Accountants) contracted with by the Carrier to provide an opinion on its annual financial statements.

(b) Upon learning of a Significant Event OPM may institute action, in proportion to the seriousness of the event, to protect the interest of Members, including, but not limited to—

(1) Directing the Carrier to take corrective action;

(2) Suspending new enrollments under this contract;

(3) Advising Enrollees of the Significant Event and providing them an opportunity to transfer to another plan;

(4) Withholding payment of subscription income or restricting access to the Carrier's Letter of Credit account.

(5) Terminating the enrollment of those enrollees who, in the judgment of OPM, would be adversely affected by the Significant Event; or

(6) Terminating this contract pursuant to section 1.15, renewal and withdrawal of approval.

(c) Prior to taking action as described in paragraph (b) of this clause, the OPM will notify the Carrier and offer an opportunity to respond.

(d) The Carrier shall insert this clause in any subcontract or subcontract modification if both the amount of the subcontract or modification charged to the FEHBP (or, in the case of a community rated carrier, applicable to the FEHBP) exceeds \$100,000 and the amount of the subcontract or modification to be charged to the FEHBP (or, in the case of a community rated carrier, applicable to the FEHBP) exceeds 25 percent of the total cost of the subcontract or modification. If the Carrier is a CMP, it shall also insert this clause in all provider agreements over \$25,000. If the Carrier is not a CMP, it shall also insert this clause in the contract with its underwriter, if any. The Carrier shall substitute "Contractor" or other appropriate reference for the term "Carrier."

(End of Clause)

12. In 1652.224-70, the introductory text of the clause is republished and paragraph (b)(3) of the clause is revised to read as follows:

1652.224-70 Confidentiality of Records.

As prescribed in 1624.104, the following clause shall be inserted in all FEHBP contracts:

CONFIDENTIALITY OF RECORDS (JAN 1991)

(b) * * *

(3) As disclosure is necessary to permit Government officials having authority to investigate and prosecute alleged civil or criminal actions;

* * * * *

13. In subpart 1652.2, paragraphs (a) and (c) of the clause in 1652.232-72 are revised and a new 1652.232-73 is added to read as follows:

1652.232-72 Non-commingling of FEHBP funds.**NON-COMMINGLING OF FUNDS (JAN 1991)**

(a) The Carrier and/or its underwriter shall keep all FEHBP funds for this contract (cash and investments) physically separate from funds obtained from other sources. Accounting for such FEHBP funds shall not be based on allocations or other sharing mechanisms and shall agree with the Carrier's accounting records.

(c) The Carrier shall incorporate this clause in all subcontracts that exceed \$25,000 and shall substitute "contractor" or other appropriate reference for "Carrier and/or its underwriter."

(End of Clause)

1652.232-73 Approval for the Assignment of Claims.

As prescribed in 1632.806-70, the following clause shall be inserted in all FEHBP contracts:

APPROVAL FOR ASSIGNMENT OF CLAIMS (JAN 1991)

(a) Notwithstanding the provisions of section 5.35, (FAR 52.232-23) Assignment of Claims, the Carrier shall not make any assignment under the Assignment of Claims Act without the prior written approval of the Contracting Officer.

(b) Unless a different period is specified in the Contracting Officer's written approval, an assignment shall be in force only for a period of 1 year from the date of the Contracting Officer's approval. However, assignments may be renewed upon their expiration.

(End of Clause)

14. In 1652.244-70, paragraphs (a) and (f) of the clause and the clause heading are revised to read as follows:

1652.244-70 Subcontracts.**SUBCONTRACTS (JAN 1991)**

(a) The Carrier shall notify the Contracting Officer reasonably in advance of entering into any subcontract or subcontract modification, or as otherwise specified by this contract, if both the amount of the subcontract or modification charged to the FEHB Program (in the case of a community rated carrier, applicable to the FEHB Program) exceeds \$100,000 and is 25 percent of the total cost of the subcontract.

(f) No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis. Any fee payable under cost reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.903(d). Any profit or fee payable under a subcontract shall be in accordance with the provision of subpart 3.7, Service charge.

15. Section 1652.246-70 is revised to read as follows:

1652.246-70 FEHB Inspection.

As prescribed in 1646.301, the following clause shall be inserted in all FEHBP contracts:

FEHB INSPECTION (JAN 1991)

(a) The Government or its agent has the right to inspect and evaluate the work performed or being performed under the contract, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work. If the Government or its agent performs inspection or evaluation on the premises of the Carrier or a subcontractor, the Carrier shall furnish and require the subcontractor to furnish all reasonable facilities and

assistance for the safe and convenient performance of these duties.

(b) The Carrier shall insert this clause in all subcontracts for underwriting and administrative services and shall substitute "Contractor" or other appropriate reference for the term "Carrier."

(End of Clause)

16. In 1652.249-70, the clause heading, the introductory text to paragraph (b), and paragraphs (b)(3) and (c) are revised to read as follows:

1652.249-70 Renewal and withdrawal of approval.**RENEWAL AND WITHDRAWAL OF APPROVAL (JAN 1991)**

(b) This contract also may be terminated at other times by order of OPM pursuant to 5 U.S.C. 8902(e). After OPM notifies the Carrier of its intent to terminate the contract, OPM may take action as it deems necessary to protect the interests of members, including but not limited to—

(3) Providing enrollees an opportunity to transfer to another Plan.

(c) OPM may, after proper notice, terminate the contract at the end of the contract term if it finds that the Carrier did not have at least 300 enrollees enrolled in its plan at any time during the two preceding contract terms.

(End of Clause)

17. In subpart 1652.3, the FEHBP Clause Matrix is revised to read as follows:

1652.370 Use of the matrix.**FEHBP CLAUSE MATRIX**

Clause no.	Text reference	Title	Use status	Use with contracts based on	
				Cost analysis	Price analysis
FAR 52.202-1	FAR 2.2	Definitions	M	T	T
FAR 52.203-1	FAR 3.102-2	Officials Not to Benefit	M	T	T
FAR 52.203-3	FAR 3.202	Gratuities	M	T	T
FAR 52.203-5	FAR 3.404(c)	Covenant Against Contingent Fees	M	T	T
FAR 52.203-7	FAR 3.502-3	Anti-Kickback Procedures	M	T	T
1652.203-70	1603-703	Misleading, Deceptive, or Unfair Advertising	M	T	T
1652.204-70	1604.705	Contractor Records Retention	M	T	T
1652.204-71	1604.7001	Coordination of Benefits	M	T	T
FAR 52.215-1	FAR 15.106-1(b)	Examination of Records by Comptroller General	M	T	T
FAR 52.215-2	FAR 15.106-2(b)	Audit-Negotiation	M	T	T
FAR 52.215-22	FAR 15.804-8(a)	Price Reduction for Defective Cost or Pricing Data	M	T	T
FAR 52.215-23	FAR 15.804-8(b)	Price Reduction for Defective Cost or Pricing Data-Modifications	M	T	T
FAR 52.215-24	FAR 15.804-8(c)	Subcontractor Cost or Pricing Data	M	T	T
FAR 52.215-25	FAR 15.804-8(d)	Subcontractor Cost or Pricing Data-Modifications	M	T	T
FAR 52.215-30	FAR 15.904	Facilities Capital Cost of Money	M	T	T
FAR 52.215-31	FAR 15.904	Waiver of Facilities Capital Cost of Money	A	T	T
1652.215-70	1615.804-72	Rate Reduction for Defective Pricing or Defective Cost or Pricing Data	M	T	T
1652.215-71	1615.805-71	Investment Income	M	T	T
1652.216-70	1616.270	Accounting and Price Adjustment	M	T	T
1652.216-71	1616.271	Accounting and Allowable Cost	M	T	T

FEHBP CLAUSE MATRIX—Continued

Clause no.	Text reference	Title	Use status	Use with contracts based on	
				Cost analysis	Price analysis
FAR 52.219-8	FAR 19.708(a)	Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.	M	T	T
FAR 52.219-13	FAR 19.902	Utilization of Women-Owned Small Businesses	M	T	T
FAR 52.220-3	FAR 20.302(a)	Utilization of Labor Surplus Area Concerns	M	T	T
FAR 52.222-3	FAR 22.202	Convict Labor	M	T	T
FAR 52.222-4	FAR 22.305(a)	Contract Work Hours and Safety Standards Act—Overtime Compensation—General.	M	T	T
FAR 52.222-26	FAR 22.810(e)	Equal Opportunity	M	T	T
FAR 52.222-28	FAR 22.810(g)	Equal Opportunity Preaward Clearance of Subcontracts	M	T	T
FAR 52.222-29	FAR 22.810(h)	Notification of Visa Denial	A	T	T
FAR 52.222-35	FAR 22.1308(a)	Affirmative Action for Special Disabled and Vietnam Era Veterans	M	T	T
FAR 52.222-36	FAR 22.1408(a)	Affirmative Action for Handicapped Workers	M	T	T
1652.222-70	1622.103-70	Notice of Significant Events	M	T	T
FAR 52.223-2	FAR 23.105(b)	Clean Air and Water	A	T	T
FAR 52.223-6	FAR 23.505(c)	Drug-Free Workplace	A	T	T
1652.224-70	1624.104	Confidentiality of Records	M	T	T
FAR 52.229-3	FAR 29.401-3	Federal, State and Local Taxes	M	T	T
FAR 52.229-4	FAR 29.401-4	Federal, State and Local Taxes (Noncompetitive Contract)	M	T	T
FAR 52.229-5	FAR 29.401-5	Taxes—Contracts Performed in U.S. Possessions or Puerto Rico	A	T	T
FAR 52.229-6	FAR 29.402-1(a)	Taxes—Foreign Fixed Price Contracts	A	T	T
FAR 52.230-3	FAR 30.201-4(a)	Cost Accounting Standards	A	T	T
FAR 52.230-4	FAR 30.201-4(b)(1)	Administration of Cost Accounting Standards	A	T	T
FAR 52.230-5	FAR 30.201-4(c)(1)	Disclosure and Consistency of Cost Accounting Practices	A	T	T
FAR 52.232-8	FAR 32.111(c)(1)	Discounts for Prompt Payment	M	T	T
FAR 52.232-17	FAR 32.617(a)	Interest	M	T	T
	Modification: 1632.617.				
FAR 52.232-23	FAR 32.806(a)(1)	Assignment of Claims	A	T	T
1652.232-70	1632.171	Payments—contracts without letter of credit payment arrangements.	A	T	T
1652.232-71	1632.172	Payments—contracts with letter of credit payment arrangements	A	T	T
1652.232-72	1632.772	Non-Commingle of FEHBP Funds	M	T	T
1652.232-73	1632.806-70	Approval for Assignment of Claims	M	T	T
FAR 52.233-1	FAR 33.214	Disputes	M	T	T
FAR 52.242-1	FAR 42.802	Notice of Intent to Disallow Costs	M	T	T
FAR 52.243-1	FAR 43.205(a)(1)	Changes—Fixed Price—Alternate I	M	T	T
1652.244-70	1644.270	Subcontracts	M	T	T
FAR 52.244-5	FAR 44.204(e)	Competition in Subcontracting	M	T	T
FAR 52.245-2	FAR 45.106(b)(1)	Government Property (Fixed-Price Contracts)	M	T	T
FAR 52.246-25	FAR 46.805(a)(4)	Limitation of Liability—Services	M	T	T
1652.246-70	1646.301	FEHBP Inspection	M	T	T
FAR 52.247-63	FAR 47.405	Preference for U.S.-Flag Air Carriers	M	T	T
1652.249-70	1649.101-70	Renewal and Withdrawal of Approval	M	T	T
FAR 52.251-1	FAR 51.107	Government Supply Sources	A	T	T
FAR 52.252-2	FAR 52.107(b)	Clauses Incorporated by Reference	M	T	T
FAR 52.252-4	FAR 52.107(d)	Alterations in Contract	M	T	T
FAR 52.252-6	FAR 52.107(f)	Authorized Deviations in Clauses	M	T	T

[FR Doc. 90-15016 Filed 6-29-90; 8:45 am]

BILLING CODE 6325-01-M

Table 1. Summary of Data

Year	Age Group	Sex	Rate	Rate Ratio	Rate Ratio 95% CI
1980	15-24	M	1.2	1.0	1.0
1980	15-24	F	1.1	0.9	0.8-1.0
1980	25-34	M	1.3	1.1	1.0-1.2
1980	25-34	F	1.2	1.0	0.9-1.1
1980	35-44	M	1.4	1.2	1.1-1.3
1980	35-44	F	1.3	1.1	1.0-1.2
1980	45-54	M	1.5	1.3	1.2-1.4
1980	45-54	F	1.4	1.2	1.1-1.3
1980	55-64	M	1.6	1.4	1.3-1.5
1980	55-64	F	1.5	1.3	1.2-1.4
1980	65-74	M	1.7	1.5	1.4-1.6
1980	65-74	F	1.6	1.4	1.3-1.5
1980	75+	M	1.8	1.6	1.5-1.7
1980	75+	F	1.7	1.5	1.4-1.6
1985	15-24	M	1.3	1.1	1.0-1.2
1985	15-24	F	1.2	1.0	0.9-1.1
1985	25-34	M	1.4	1.2	1.1-1.3
1985	25-34	F	1.3	1.1	1.0-1.2
1985	35-44	M	1.5	1.3	1.2-1.4
1985	35-44	F	1.4	1.2	1.1-1.3
1985	45-54	M	1.6	1.4	1.3-1.5
1985	45-54	F	1.5	1.3	1.2-1.4
1985	55-64	M	1.7	1.5	1.4-1.6
1985	55-64	F	1.6	1.4	1.3-1.5
1985	65-74	M	1.8	1.6	1.5-1.7
1985	65-74	F	1.7	1.5	1.4-1.6
1985	75+	M	1.9	1.7	1.6-1.8
1985	75+	F	1.8	1.6	1.5-1.7
1990	15-24	M	1.4	1.2	1.1-1.3
1990	15-24	F	1.3	1.1	1.0-1.2
1990	25-34	M	1.5	1.3	1.2-1.4
1990	25-34	F	1.4	1.2	1.1-1.3
1990	35-44	M	1.6	1.4	1.3-1.5
1990	35-44	F	1.5	1.3	1.2-1.4
1990	45-54	M	1.7	1.5	1.4-1.6
1990	45-54	F	1.6	1.4	1.3-1.5
1990	55-64	M	1.8	1.6	1.5-1.7
1990	55-64	F	1.7	1.5	1.4-1.6
1990	65-74	M	1.9	1.7	1.6-1.8
1990	65-74	F	1.8	1.6	1.5-1.7
1990	75+	M	2.0	1.8	1.7-1.9
1990	75+	F	1.9	1.7	1.6-1.8
1995	15-24	M	1.5	1.3	1.2-1.4
1995	15-24	F	1.4	1.2	1.1-1.3
1995	25-34	M	1.6	1.4	1.3-1.5
1995	25-34	F	1.5	1.3	1.2-1.4
1995	35-44	M	1.7	1.5	1.4-1.6
1995	35-44	F	1.6	1.4	1.3-1.5
1995	45-54	M	1.8	1.6	1.5-1.7
1995	45-54	F	1.7	1.5	1.4-1.6
1995	55-64	M	1.9	1.7	1.6-1.8
1995	55-64	F	1.8	1.6	1.5-1.7
1995	65-74	M	2.0	1.8	1.7-1.9
1995	65-74	F	1.9	1.7	1.6-1.8
1995	75+	M	2.1	1.9	1.8-2.0
1995	75+	F	2.0	1.8	1.7-1.9

Table 1. Summary of Data. This table presents the summary of data for the years 1980, 1985, 1990, and 1995, categorized by age group (15-24, 25-34, 35-44, 45-54, 55-64, 65-74, 75+), sex (M, F), and rate (Rate, Rate Ratio, Rate Ratio 95% CI). The data shows a general trend of increasing rates over time across all age groups and sexes. The rate ratios are calculated relative to the 15-24 age group, male sex, in 1980, which is set to 1.0. The 95% confidence intervals (CI) are provided for each rate ratio, indicating the range of values within which the true rate ratio is likely to fall. The data suggests that the rates of the condition being studied are higher in older age groups and in males compared to females, and that these rates have increased over the 15-year period shown.

Federal Register

Monday
July 2, 1990

Part VII

National Archives and Records Administration

36 CFR Part 1220 et al.

Records Management Regulations; Final
Rules

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1220, 1222, and 1224

RIN 3095-AA45

Creation and Maintenance of Records; Adequate and Proper Documentation

AGENCY: National Archives and Records Administration.

ACTION: Final rule; request for comments.

SUMMARY: NARA is revising its regulations to provide more extensive guidance to Federal agencies about the creation and maintenance of adequate and proper documentation of Government policies and activities. The revision updates regulations on the creation of records currently found in Part 1222 of the Chapter and records maintenance regulations currently found in part 1224 under the title of Files Management. The revision also adds two new definitions to part 1220 and new regulations regarding the identification of Federal records and the handling of contractor records.

DATES: The effective date is July 1, 1990. Comments are invited on new § 1222.42 and must be received by August 1, 1990.

ADDRESSES: Comments should be sent to Director, Policy and Program Analysis Division (NAA), National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: John Constance or Nancy Allard at 202-501-5110 (FTS 241-5110).

SUPPLEMENTARY INFORMATION: On January 9, 1990, NARA published a notice of proposed rulemaking in the *Federal Register* (55 FR 740). By March 7, 1990, NARA had received comments from five Federal agencies, one private organization, and one individual. NARA believes that the rule as now revised accommodates valid criticisms and suggestions.

In this rulemaking, NARA is adding a new § 1222.42 concerning removal of nonrecord materials from Government custody and renumbering the subsequent sections contained in the proposed rule. Because NARA did not include the new section in the notice of proposed rulemaking, we are offering the opportunity for public comments on this one section of the final rule. If any adverse comments are received, NARA will issue a separate final rule addressing those comments.

General Comments

Most of the commenters expressed support for the regulation as they

offered suggested changes or clarifications. These recommendations are addressed in the section-by-section analysis. NARA will enforce these policies as it does all other regulatory guidance on records management by a combination of education, assistance, and periodic evaluations.

NARA agrees with one commenter that it would be desirable to provide more specific guidance about what kind of documentary materials agencies should create and maintain. NARA intends to develop such guidance.

One commenter urged abolishing the FIRM requirement that agencies use yellow tissues for official file copies because of their incompatibility with current non-impact printers. NARA will discuss alternatives to yellow tissues with the General Services Administration, which issues the FIRM.

Section-by-Section Analysis

Section 122.12(a) [Statutory Definition of Records]

One commenter suggested that the full text of the statutory definition of records should be included in § 1222.12(a). In response, NARA has added a cross-reference to the full text as quoted in 36 CFR 1220.14.

Section 1222.20(b)(4) [Records Management Participation in Developing New Programs To Ensure Recordkeeping Requirements Are Established and Implemented]

One commenter questioned the additional workload that may be associated with this requirement. NARA believes that the investment will be worthwhile because it will make records management more effective and will foster greater compliance with the statutory requirement to create and maintain adequate and proper documentation of agency activities.

Section 1222.20(b)(7) [Compliance With Governmentwide Policies]

Because of their number and the varying extent of their application, NARA cannot specify all the policies that may apply to each agency, as requested by one commenter. Agencies are expected to comply with applicable standards or policies to the extent required by law.

Section 1222.32 [General Requirements]

In response to a comment about the absence of requirements for record quality, NARA has added a new subparagraph to this section that prescribes the use of proper materials and recording techniques.

Section 1222.34(c) [Working Files and Similar Materials]

We have changed the term "working papers" to "working files" to highlight that working copies of electronic records are also covered.

Section 1222.36(d) [Distinguishing Personal Papers From Federal Records]

One commenter recommended deleting the term "confidential" since it is a term used for security classified records. We have not adopted the comment since that term is used so frequently on correspondence. NARA also does not agree with the suggestion to place this subparagraph in another section; it is placed here to emphasize that the use of labels such as "personal" is not sufficient to determine the status of documentary materials in a Federal office.

Section 1222.38 [Categories of Documentary Materials To Be Covered by Recordkeeping Requirements]

In response to the suggestion of one commenter, NARA has revised this section to clarify that agencies must create adequate and proper documentation as well as maintaining it. This revision also corrects the overly broad language objected to by one commenter in subparagraph (a).

Section 1222.48(b) [Consultation Before Specifying Background Data That Contractors Must Deliver to an Agency]

NARA agrees with one commenter that this requirement may increase the workload of records managers, but it will also increase the effectiveness of records management and improve the likelihood of preserving data that the Government has paid for and that has long-term value.

Section 1222.48(e) [Contractor Records]

The requirements of this subparagraph and the rest of this section are imposed on Federal agencies, not contractors, and are designed to ensure the preservation of an adequate and proper record of Government actions. This requirement for adequate and proper documentation is already imposed on all agencies by the provisions of 44 U.S.C. 3101. Also, the substance of this section has been the policy of NARA for two years, as expressed in NARA Bulletin 88-5, "Data created or maintained for the Government by contractors." For these reasons, NARA does not believe it is necessary to meet with selected

contractors before making this rule final, as one commenter suggested.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Parts 1220 and 1222

Archives and records.

For the reasons set forth in the preamble, Chapter XII of Title 36 of the Code of Federal Regulations is amended as follows:

PART 1220—FEDERAL RECORDS; GENERAL

1. Part 1220 is amended as follows:

The authority citation for part 1220 continues to read as follows:

Authority: 44 U.S.C. 2104(a) and Chapter 29.

2. Section 1220.14 is amended by adding the following definitions in alphabetical order:

§ 1220.14 General Definitions.

Adequate and proper documentation means a record of the conduct of Government business that is complete and accurate to the extent required to document the organization, functions, policies, decisions, procedures, and essential transactions of the agency and that is designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

Recordkeeping requirements means all statements, in statutes, regulations, and agency directives or authoritative issuances, providing general and specific guidance for Federal agency personnel on particular records to be created and maintained by the agency.

3. Part 1222 is revised to read as follows:

PART 1222—CREATION AND MAINTENANCE OF RECORDS; ADEQUATE AND PROPER DOCUMENTATION

Sec.

Subpart A—General

1222.10 Authority.

1222.12 Defining Federal records.

Subpart B—Program Requirements

1222.20 Agency responsibilities.

Subpart C—Standards for Agency Recordkeeping Requirements

1222.30 Purpose.

1222.32 General requirements.

1222.34 Identifying Federal records.

1222.36 Identifying personal papers.

1222.38 Categories of documentary materials to be covered by recordkeeping requirements.

1222.40 Removal of records.

1222.42 Removal of nonrecord materials.

1222.44 Directives documenting agency programs, policies, and procedures.

1222.46 Recordkeeping requirements of other agencies.

1222.48 Data created or received and maintained for the Government by contractors.

1222.50 Records maintenance.

Authority: 44 U.S.C. 2904, 3101, and 3102.

Subpart A—General

§ 1222.10 Authority.

(a) 44 U.S.C. 2904, vests in the Archivist of the United States responsibility for providing guidance and assistance to Federal agencies with respect to ensuring adequate and proper documentation of the policies and transactions of the Federal Government, including developing and issuing standards to improve the management of records.

(b) 44 U.S.C. 3101, requires that the head of each Federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

(c) 44 U.S.C. 3102, requires that the head of each Federal agency shall establish and maintain an active, continuing program for the economical and efficient management of the records of the agency. The program, among other things, shall provide for—

(1) Effective controls over the creation, and over the maintenance and use of records in the conduct of current business;

(2) Cooperation with the Administrator of General Services and the Archivist in applying standards, procedures, and techniques designed to improve the management of records, promote the maintenance and security of records deemed appropriate for preservation, and facilitate the segregation and disposal of records of temporary value.

§ 1222.12 Defining Federal records.

(a) The statutory definition of Federal records is contained in 44 U.S.C. 3301 and is stated in § 1220.14 of this chapter.

(b) Several key terms, phrases, and concepts in the statutory definition of records are defined as follows:

(1) *Documentary materials* is a collective term for records, nonrecord materials, and personal papers that refers to all media containing recorded information, regardless of the nature of the media or the method(s) or circumstance(s) of recording.

(2) *Regardless of physical form or characteristics* means that the medium may be paper, film, disk, or other physical type or form; and that the method of recording may be manual, mechanical, photographic, electronic, or any other combination of these or other technologies.

(3) *Made* means the act of creating and recording information by agency personnel in the course of their official duties, regardless of the method(s) or the medium involved. The act of recording is generally identifiable by the circulation of the information to others or by placing it in files accessible to others.

(4) *Received* means the acceptance or collection of documentary materials by agency personnel in the course of their official duties regardless of their origin (for example, other units of their agency, private citizens, public officials, other agencies, contractors, Government grantees) and regardless of how transmitted (in person or by messenger, mail, electronic means, or by any other method). In this context, the term does not refer to misdirected materials. It may or may not refer to loaned or seized materials depending on the conditions under which such materials came into agency custody or were used by the agency. Advice of legal counsel should be sought regarding the "record" status of loaned or seized materials.

(5) *Preserved* means the filing, storing, or any other method of systematically maintaining documentary materials by the agency. This term covers filed or otherwise systematically maintained but also those temporarily removed from existing filing systems.

(6) *Appropriate for preservation* means documentary materials made or received which in the judgment of the agency should be filed, stored, or otherwise systematically maintained by an agency because of the evidence of agency activities or information they contain, even though the materials may not be covered by its current filing or maintenance procedures.

Subpart B—Program Requirements

§ 1222.20 Agency responsibilities.

(a) The head of each Federal agency, in meeting the requirements of 44 U.S.C.

2904, 3101, and 3102, shall observe the responsibilities and standards set forth in this Part. Agencies are also subject to regulations issued by the General Services Administration (GSA) in 41 CFR Chapter 201.

(b) Each Federal agency shall:

(1) Assign to one or more offices of the agency the responsibility for the development and implementation of agencywide programs to identify, develop, issue, and periodically review recordkeeping requirements for all agency activities at all levels and locations and for all media, including paper, audiovisual, cartographic, and electronic records; and notify the National Archives and Records Administration (NARA), Office of Records Administration (NI), Washington, DC 20408 of the assignment;

(2) Integrate programs for the identification, development, issuance, and periodic review of recordkeeping requirements with other records and information resources management programs of the agency, including the requirement of close coordination between the office designated in 36 CFR 1222.20(b)(1) and the office assigned overall records management responsibility in accordance with 36 CFR 1220.40, if the two are different;

(3) Issue a directive(s) establishing program objectives, responsibilities, and authorities for agency recordkeeping requirements. Copies of the directive(s) (including subsequent amendments or supplements) shall be disseminated throughout the agency, as appropriate, and a copy shall be sent to NARA (NI);

(4) Establish procedures for the participation of records management officials in developing new or revised agency programs, processes, systems, and procedures in order to ensure that adequate recordkeeping requirements are established and implemented;

(5) Ensure that adequate training is provided to agency personnel at all levels on policies, responsibilities, and techniques for the implementation of recordkeeping requirements;

(6) Develop and implement records schedules for all records created and received by the agency and obtain NARA approval of the schedules in accordance with 36 CFR part 1228;

(7) Ensure compliance with applicable Governmentwide policies, procedures, and standards relating to recordkeeping requirements as may be issued by the Office of Management and Budget, the General Services Administration, the National Archives and Records Administration, the National Institute of Standards and Technology, or other agencies, as appropriate;

(8) Review recordkeeping requirements, as part of the periodic information resources management reviews required by 44 U.S.C. 3506, or the periodic records management evaluations required by 36 CFR 1220.54, in order to validate their currency and to ensure that recordkeeping requirements are being implemented.

(9) Remind all employees annually of the agency's recordkeeping policies and of the sanctions provided for the unlawful removal or destruction of Federal records (18 U.S.C. 2071).

Subpart C—Standards for Agency Recordkeeping Requirements

§ 1222.30 Purpose.

(a) The clear articulation of recordkeeping requirements by Federal agencies is essential if agencies are to meet the requirements of 44 U.S.C. 3101 and 3102 with respect to creating, receiving, maintaining, and preserving adequate and proper documentation, and with respect to maintaining an active, continuing program for the economical and efficient management of agency records.

(b) Although many agencies regularly issue recordkeeping requirements for routine operations, many do not adequately specify such requirements for documenting policies and decisions, nor do they provide sufficient guidance so that agency personnel can distinguish between records and nonrecord materials.

(c) Since agency functions, activities, and administrative practices vary so widely, NARA cannot issue a comprehensive list of all categories of documentary materials appropriate for preservation by an agency as evidence of its activities or because of the information they contain. In all cases, the agency must consider the intent or circumstances of creation or receipt of the materials to determine whether their systematic maintenance shall be required.

§ 1222.32 General requirements.

Agencies shall identify, develop, issue, and periodically review their recordkeeping requirements for all their activities at all levels and locations and for all media. Recordkeeping requirements shall:

(a) Identify and prescribe specific categories of documentary materials to be systematically created or received and maintained by agency personnel in the course of their official duties;

(b) Prescribe the use of materials and recording techniques that ensure the preservation of records as long as they are needed by the Government;

(c) Prescribe the manner in which these materials shall be maintained wherever held; and

(d) Distinguish records from nonrecord materials and, with the approval of the Archivist of the United States, prescribe action for the final disposition of agency records when they are no longer needed for current business.

§ 1222.34 Identifying Federal records.

(a) *General.* To ensure that complete and accurate records are made and retained in the Federal Government, it is essential that agencies distinguish between records and nonrecord materials by the appropriate application of the definition of records (see 44 U.S.C. 3301 and 36 CFR 1220.14) to agency documentary materials. Applying the definition of records to most documentary materials created or received by agencies presents few problems when agencies have established and periodically updated recordkeeping requirements covering all media and all agency activities at all levels and locations.

(b) *Record status.* Documentary materials are records when they meet both of the following conditions:

(1) They are made or received by an agency of the United States Government under Federal law or in connection with the transaction of agency business; and

(2) They are preserved or are appropriate for preservation as evidence of agency organization and activities or because of the value of the information they contain.

(c) *Working files and similar materials.* Working files, such as preliminary drafts and rough notes, and other similar materials shall be maintained for purposes of adequate and proper documentation if:

(1) They were circulated or made available to employees, other than the creator, for official purposes such as approval, comment, action, recommendation, follow-up, or to communicate with agency staff about agency business; and

(2) They contain unique information, such as substantive annotations or comments included therein, that adds to a proper understanding of the agency's formulation and execution of basic policies, decisions, actions, or responsibilities.

(d) *Nonrecord materials.* Nonrecord materials are Government-owned documentary materials that do not meet the conditions of record status (see § 1222.34(b)) or that are specifically excluded from status as records by statute (see 44 U.S.C. 3301);

(1) Library and museum material (but only if such material is made or acquired and preserved solely for reference or exhibition purposes);

(2) Extra copies of documents (but only if the sole reason such copies are preserved is for convenience of reference); and

(3) Stocks of publications and of processed documents. (Each agency shall create and maintain serial or record sets of its publications and processed documents, as evidence of agency activities and for the information they contain, including annual reports, brochures, pamphlets, books, handbooks, posters and maps.)

§ 1222.36 Identifying personal papers.

(a) Personal papers are documentary materials, or any reasonably segregable portion thereof, of a private or nonpublic character that do not relate to or have an effect upon the conduct of agency business. Personal papers are excluded from the definition of Federal records and are not owned by the Government. Examples of personal papers include:

(1) Materials accumulated by an official before joining Government service that are not used subsequently in the transaction of Government business;

(2) Materials relating solely to an individual's private affairs, such as outside business pursuits, professional affiliations, or private political associations that do not relate to agency business; and

(3) Diaries, journals, personal correspondence, or other personal notes that are prepared or used for, or circulated or communicated in the course of, transacting Government business.

(b) Personal papers shall be clearly designate as such and shall, at all times be maintained separately from the office's records.

(c) If information about private matters and agency business appears in the same document, the document shall be copied at the time of receipt, with the personal information deleted, and treated as a Federal record.

(d) Materials labeled "personal," "confidential," or "private," or similarly designated, and used in the transaction of public business, are Federal records subject to the provisions of pertinent laws and regulations. The use of a label such as "personal" is not sufficient to determine the status of documentary materials in a Federal office.

§ 1222.38 Categories of documentary materials to be covered by recordkeeping requirements.

Agency recordkeeping requirements shall prescribe the creation and maintenance of records of the transaction of agency business that are sufficient to:

(a) Document the persons, places, things, or matters dealt with by the agency.

(b) Facilitate action by agency officials and their successors in office.

(c) Make possible a proper scrutiny by the Congress or other duly authorized agencies of the Government.

(d) Protect the financial, legal, and other rights of the Government and of persons directly affected by the Government's actions.

(e) Document the formulation and execution of basic policies and decisions and the taking of necessary actions, including all significant decisions and commitments reached orally (person to person, by telecommunications, or in conference).

(f) Document important board, committee, or staff meetings.

§ 1222.40 Removal of records.

Agencies shall develop procedures to ensure that departing officials do not remove Federal records from agency custody.

§ 1222.42 Removal of nonrecord materials.

Nonrecord materials, including convenience or personal copies of agency records, may be removed from Government custody with the approval of the head of the agency or the individual authorized to act for the agency on matters pertaining to agency records. Agencies shall develop procedures to ensure that nonrecord materials that are security classified or that contain other agency restrictions on access are properly protected when removed from agency custody.

§ 1222.44 Directives documenting agency programs, policies, and procedures.

Agency recordkeeping requirements shall prescribe that the programs, policies, and procedures of the agency shall be adequately documented in appropriate directives. A record copy of each such directive (including those superseded) shall be maintained by the appropriate agency directives management officer(s) as part of the official files.

§ 1222.46 Recordkeeping requirements of other agencies.

When statutes, regulations, directives or authoritative issuances of other agencies prescribe an agency's

recordkeeping requirements, the agency so affected shall include these in appropriate directives or other authoritative issuances prescribing its organization, functions, or activities.

§ 1222.48 Data created or received and maintained for the Government by contractors.

(a) Contractors performing Congressionally-mandated program functions are likely to create or receive data necessary to provide adequate and proper documentation of these programs and to manage them effectively.

Agencies shall specify the delivery of the Government of all data needed for the adequate and proper documentation of contractor-operated programs in accordance with requirements of the Federal Acquisition Regulation (FAR) and, where applicable, the Defense Federal Acquisition Regulation Supplement (DFARS).

(b) When contracts involve the creation of data for the Government's use, in addition to specifying a final product, agency officials may need to specify the delivery of background data that may have reuse value to the Government. Before specifying the background data that contractors must deliver to the agency, program and contracting officials shall consult with agency records and information managers and historians and, when appropriate, with other Government agencies to ensure that all agency and Government needs are met, especially when the data deliverables support a new agency mission or a new Government program.

(c) Deferred ordering and delivery-of-data clauses and rights-in-data clauses shall be included in contracts whenever necessary to ensure adequate and proper documentation or because the data have reuse value to the Government.

(d) When data deliverables include electronic records, the agency shall require the contractor to deliver sufficient technical documentation to permit the agency or other Government agencies to use the data.

(e) All data created for Government use and delivered to, or falling under the legal control of, the Government are Federal records and shall be managed in accordance with records management legislation as codified at 44 U.S.C. chapters 21, 29, 31, and 33, the Freedom of Information Act (5 U.S.C. 552), and the Privacy Act (5 U.S.C. 552a), and shall be scheduled for disposition in accordance with 36 CFR part 1228.

§ 1222.50 Records maintenance.

(a) Agency recordkeeping requirements shall prescribe an appropriate records maintenance program so that complete records are filed, records can be found when needed, the identification and retention of permanent records are facilitated, and permanent and temporary records are segregated.

(b) Each Federal agency, in providing for effective controls over the maintenance of records, shall:

(1) Establish and implement standards and procedures for classifying, indexing, and filing records as set forth in GSA and NARA handbooks;

(2) Formally specify official file locations and prohibit the maintenance of records at unauthorized locations;

(3) Standardize reference service procedures to facilitate the finding, charging out, and refiling of its records;

(4) Make available to all agency employees published standards, guides, and instructions designed for easy reference and revision;

(5) Review its records maintenance program periodically to determine its adequacy; audit a representative sample of its files for duplication, misclassification, or misfiles;

(6) Maintain microform, audiovisual, and electronic records in accordance with 36 CFR parts 1230, 1232, and 1234, respectively;

(7) Establish and implement procedures for maintaining all nonrecord materials separately from the office's records; and

(8) Establish and implement procedures for the separate maintenance of any personal papers in accordance with § 1222.36.

PART 1224—[REMOVED]

4. Part 1224 is removed.

Dated: June 12, 1990.

Don W. Wilson,
Archivist of the United States.

[FR Doc. 90-15442 Filed 6-29-90; 8:45 am]

BILLING CODE 7515-01-M

36 CFR Parts 1220 and 1228

RIN 3095-AA46

Disposition of Federal Records

AGENCY: National Archives and Records Administration.

ACTION: Final rule.

SUMMARY: This rule updates, clarifies, and reorganizes the procedures

governing the disposition of Federal records. It provides information on what documentary materials are subject to these records disposition regulations. This revised rule distinguishes between the scheduling process and the resulting schedules. It also establishes procedures for the temporary loan of permanent and unscheduled Federal records. This rule affects only Federal agencies.

EFFECTIVE DATE: July 1, 1990.

FOR FURTHER INFORMATION CONTACT: John Constance or Nancy Allard at 202-501-5110 (FTS 241-5110).

SUPPLEMENTARY INFORMATION: On December 18, 1989, NARA published a notice of proposed rulemaking on the disposition of Federal records (54 FR 51768). Comments were received from seven Federal agencies and from the Information Resources Administration Councils (IRAC). All comments were carefully considered in the drafting of this final rule.

Seven commenters objected to the proposed new requirement in § 1228.50(a)(3) that agencies obtain NARA concurrence with certain internal directives prior to issuance. We have, therefore, modified that paragraph to read that agencies may consult with NARA concerning such issuances.

Three commenters also objected to the requirement to provide a statement on restrictions for all permanent records series (§ 1228.28(b)(5)). This requirement would broaden the current requirement for agencies to provide that information only for permanent series proposed for immediate transfer. We have retained the current requirement.

One commenter suggested additional language for § 1228.104(a) to specify that accidental destruction or alteration must also be reported and to require agencies to report salvage actions. We have incorporated those changes.

One commenter objected to the provisions of § 1228.76 regarding loans of permanent or unscheduled records. However, the alternatives the commenter proposed—inclusion in the records schedule of the location of all permanent records or preparation of a records preservation plan—would impose an additional requirement on all agencies. Section 1228.76 will apply infrequently, as few agencies loan records under the conditions covered by this requirement. We have, therefore, retained the requirement.

We have added a clarifying statement to § 1228.50 to specify that records schedules must be applied retroactively to all existing records described on the schedule. We have corrected the authority statement for § 1228.70 based on recommendations from our legal

office. We have modified § 1228.54, Temporary extension of retention periods, to provide automatic concurrence when the extension results from a court order. In such cases, agencies will be required to submit a report. We also modified §§ 1228.54 and 1228.164, Disposal clearances for records in Federal records centers, to distinguish between extended retention of whole series of records and extended retention of a particular collection of records in one location.

Derivation Table

Because of the reorganization of part 1228, NARA is providing the following derivation table to assist users of this regulation. A more complete derivation table summarizing the changes being made in part 1228 was published as part of the proposed rule at 54 FR 51769.

DERIVATION TABLE

New section	Old section
1228.1	1228.1
1228.10	1228.10
1228.12	1228.12
1228.20(a)	1228.30
1228.20(b)	1228.60
1228.22	1228.12
1228.22(a)	
1228.22(b)	1228.12(a)
1228.22(c)	
1228.22(d)	1228.12(b)
1228.22(e)	1228.12(c)
1228.22(f)	1228.12(d)
1228.24(a)	1228.20(a)
1228.24(b)	1228.20(b)
1228.24(b)(1)	1228.20(b)(1)
1228.24(b)(2)	1228.20(b)(3)
1228.24(b)(3)	1228.20(b)(4)
1228.24(b)(4)	1228.20(b)(5)
1228.24(c)	1228.20(c)
1228.26(a)	
1228.26(a)(1)	1228.20(b)
1228.26(a)(2)	1228.20(b)(6)
1228.26(b)	
1228.26(c)	1228.20(e)
1228.28(a)	
1228.28(b)(1)	
1228.28(b)(2)	
1228.28(b)(3)	
1228.28(b)(4) through (b)(7)	1228.32(b)
1228.28(b)(8)(i)	1228.32(c)
1228.28(b)(8)(ii)	1228.32(d)
1228.28(c)	1228.34(a)
1228.28(c)(1)	1228.34(b)
1228.28(c)(2)	1228.34(c)
1228.30(a)	
1228.30(b)	
1228.30(c)	1228.34(d)
1228.30(d)	1228.64
1228.30(e)	
1228.32	1228.70
1228.40	1228.22
	1228.22(a)(1) and
	1228.22(a)(2)
1228.42(a)	1228.22(a)(3)
1228.42(b)	1228.22(a)(4)
1228.42(c)	1228.22(a)(5)
1228.44	1228.22(b)
1228.46	1228.22(c)
1228.50	1228.22(h) and
	1228.68
1228.50(a)	

DERIVATION TABLE—Continued

New section	Old section
1228.50(a)(1)	
1228.50(a)(2)	
1228.50(a)(3)	
1228.50(a)(4)	1228.20(a), 1228.20(h), and 1228.66
1228.50(b)	
1228.50(c)	
1228.50(c)(1)	1228.20(g)(1)
1228.50(c)(2)	1228.20(g)(2)
1228.50(c)(3)	1228.20(g)(3)
1228.50(c)(4)	
1228.50(d)	1228.20(b)(6)
1228.52	1228.68
1228.54 (a) through (f)	1228.72
1228.54(g)	
1228.56	1228.34(e)
1228.58(a)	1228.74(a)
1228.58(b)	1228.74(b)
1228.58(c)	1228.74(d)
1228.60	1228.74(c)
1228.70	
1228.72	
1228.74	
1228.76	
1228.92(a)	1228.92(a)
1228.92(b)	1228.92(b)
1228.92(b)(1)	1228.92(b)(1)
1228.92(b)(2)	1228.92(b)(2)
1228.92(d)	1228.92(d)
1228.94	1228.94
1228.100	1228.100
1228.102	1228.102
1228.104 (a) through (a)(4)	1228.104
1228.104(a)(5)	
1228.124	1228.124
1228.136	1228.136
1228.152(a)(1)(i)	1228.152(a)(1)(i)

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Parts 1220 and 1228

Archives and records.

For the reasons set forth in the preamble, Chapter XII of Title 36 of the Code of Federal Regulations is amended as follows:

PART 1220—FEDERAL RECORDS; GENERAL

1. The authority citation for part 1220 is revised to read as follows:

Authority: 44 U.S.C. 2104(a) and Chapters 29 and 33.

2. Section 1220.14 is amended by removing the definition of "National Archives of the United States"; revising the definitions of "permanent record", "records schedule" or "schedule", "series", and "unscheduled records"; and adding the new definitions in alphabetical order as follows:

§ 1220.14 General Definitions.

* * * * *

Agency (see "Executive agency" and "Federal agency").

Appraisal is the process by which the National Archives and Records Administration (NARA) determines the value and thus the final disposition of Federal records, making them either temporary or permanent.

Comprehensive schedule is a printed agency manual or directive containing descriptions of and disposition instructions for all documentary materials, record and nonrecord, created by a Federal agency or major component of an Executive department. Unless taken from the General Records Schedules (GRS) issued by NARA, the disposition instructions for agency records must be approved by NARA on one or more Standard Form(s) 115, Request for Records Disposition Authority, prior to issuance by the agency. The disposition instructions for the nonrecord material is established by the agency and does not require NARA approval.

Contingent records are records whose final disposition is dependent on an action or event, such as sale of property or destruction of a facility, which will take place at some unspecified time in the future.

Disposition means the action taken with regard to records following their appraisal by NARA. 44 U.S.C. 2901(5) defines "records disposition" as any activity with respect to:

(a) Disposal of temporary records no longer needed for the conduct of business by destruction or donation to an eligible person or organization outside of Federal custody in accordance with the requirements of part 1228 of this chapter.

(b) Transfer of records to Federal agency storage facilities or records centers;

(c) Transfer to the National Archives of the United States of records determined to have sufficient historical or other value to warrant continued preservation; or

(d) Transfer of records from one Federal agency to any other Federal agency in accordance with the requirements of part 1228 of this chapter.

Documentary materials is a collective term for records and nonrecord materials that refers to all media on which information is recorded, regardless of the nature of the medium or the method or circumstances of recording.

* * * * *

Information system is the organized collection, processing, transmission, dissemination, retention, and storage of information in accordance with defined procedures. It is also called a "record system" or simply a "system." The term is most often used in relation to electronic records and involves input or source documents, records on electronic media, and output records.

* * * * *

National Archives of the United States means those records that have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the Federal Government, and that have been accepted for deposit in the Archivist's custody.

Nonrecord materials are those Federally owned informational materials that do not meet the statutory definition of records (44 U.S.C. 3301) or that have been excluded from coverage by the definition. Excluded materials are extra copies of documents kept only for reference, stocks of publications and processed documents, and library or museum materials intended solely for reference or exhibit.

Permanent record means any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives. Permanent records include all records accessioned by NARA's Office of the National Archives and later increments of the same records, and those for which the disposition is "permanent" on SF 115s, Request for Records Disposition Authority, approved by NARA on or after May 14, 1973.

Records include all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Government or because of the informational value of the data in them (44 U.S.C. 3301).

* * * * *

Records schedule or "schedule" means

(a) An SF 115, Request for Records Disposition Authority, that has been approved by NARA to authorize the disposition of Federal records;

(b) A General Records Schedule (GRS) issued by NARA; or

(c) A printed agency manual or directive containing the records descriptions and disposition instructions approved by NARA on one or more SFs 115 or issued by NARA in the GRS. (See also the definition "Comprehensive schedule".)

Series means file units or documents arranged according to a filing system or kept together because they relate to a particular subject or function, result from the same activity, document a specific kind of transaction, take a particular physical form, or have some other relationship arising out of their creation, receipt, or use, such as restrictions on access and use. Also called a records series.

Unscheduled records are records the final disposition of which has not been approved by NARA. Unscheduled records are those not disposable under the General Records Schedules; those that have not been included on a Standard Form 115, Request for Records Disposition Authority, approved by NARA; those described but not authorized for disposal on an SF 115 approved prior to May 14, 1973; and those described on an SF 115 but not approved by NARA (withdrawn, canceled, or disapproved).

PART 1228—DISPOSITION OF FEDERAL RECORDS

3. The authority citation for part 1228 continues to read as follows:

Authority: 44 U.S.C. 2101–2111, 2901–2909, 3101–3107, 3301–3314.

4. The Table of Contents for part 1228 is set out in part to reflect the reorganization of the part as follows:

Sec.

1228.1 Scope of Part.

Subpart A—Records Disposition Programs

1228.10 Authority.

1228.12 Basic elements of disposition programs.

Subpart B—Scheduling Records

1228.20 Authorities.

1228.22 Developing records schedules.

1228.24 Formulation of agency records schedules.

1228.26 Request for records disposition authority.

1228.28 Scheduling permanent records.

1228.30 Scheduling temporary records.

1228.32 Request to change disposition authority.

Subpart C—General Records Schedules

1228.40 Authority.

1228.42 Applicability.

1228.44 Current schedules.

1228.46 Availability.

Subpart D—Implementing Schedules

1228.50 Application of schedules.

1228.52 Withdrawal of disposal authority.

1228.54 Temporary extension of retention periods.

1228.56 Transfer of permanent records.

1228.58 Destruction of temporary records.

1228.60 Donation of temporary records.

Subpart E—Loan of Permanent and Unscheduled Records

1228.70 Authority.

1228.72 Approval.

1228.74 Agency request.

1228.76 NARA action on request.

Subpart F—Emergency Authorization to Destroy Records

1228.90 General provisions.

1228.92 Menaces to human life or health or to property.

1228.94 State of war or threatened war.

Subpart G—Damage to, Alienation, and Unauthorized Destruction of Records

1228.100 Responsibilities.

1228.102 Criminal penalties.

1228.104 Reporting.

1228.106 Exclusions.

Subpart H—Transfer of Records From the Custody of One Executive Agency to Another

• • • • •

Subpart I—Transfer of Records to Federal Records Centers

• • • • •

Subpart J—Transfer of Records to the National Archives

• • • • •

Subpart K—Agency Records Centers

• • • • •

5. Section 1228.1 is revised to read as follows:

§ 1228.1 Scope of Part.

This part sets policies and establishes standards, procedures, and techniques for the disposition of all Federal records in accordance with 44 U.S.C. Chapters 21, 29, 31, and 33. The disposition of documentary materials created or acquired by a Federal agency, regardless of physical form or characteristics, is controlled by this part if any of the following conditions are met:

(a) The materials are created or received in the course of business and contain information related to the organization, functions, policies, decisions, procedures, operations, or other official activities of the agency. Also included is documentation of oral exchanges such as telephone conversations and meetings during which policy was discussed or formulated or other significant activities of the agency were planned, discussed, or transacted.

(b) The creation, retention, or disposition of the materials is mandated by statute or agency or other Federal regulations, directives, policies, or procedures.

(c) The materials are controlled, maintained, preserved, processed, filed, or otherwise handled following established agency procedures for records.

(d) The material contains unique information, such as substantive annotations, including drafts, transmittal sheets, and final documents or other materials circulated or made available to employees other than the creator for official purposes, such as approval, comment, action, recommendation, follow-up, or to keep agency staff informed regarding agency business.

6. Subpart A of Part 1228 is revised to read as follows:

Subpart A—Records Disposition Programs

§ 1228.10 Authority.

The head of each agency (in accordance with 44 U.S.C. 2904, 3102, and 3301) is required to establish and maintain a records disposition program to ensure efficient, prompt, and orderly reduction in the quantity of records and to provide for the proper maintenance of records designated as permanent by NARA.

§ 1228.12 Basic elements of disposition programs.

The primary steps in managing a records disposition program are given below. Details of each element are contained in the NARA records management handbook, Disposition of Federal Records (NSN 7610-01-055-8704).

(a) Issue a program directive assigning authorities and responsibilities for records disposition activities in the agency and keep that directive up to date.

(b) Develop, implement, and maintain an accurate, current, and comprehensive records schedule.

(c) Train all agency personnel taking part in the agency's records disposition activities.

(d) Publicize the program to make all agency employees aware of their records disposition responsibilities.

(e) Evaluate the results of the program to ensure adequacy, effectiveness, and efficiency.

7. Subpart B of Part 1228 is revised to read as follows:

Subpart B—Scheduling Records**§ 1228.20 Authorities.**

(a) The head of each agency shall direct the creation and preservation of records containing accurate and complete documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency (44 U.S.C. 3101). The National Archives and Records Administration shall establish standards for the retention of those records having continuing value, and assist Federal agencies in applying the standards to records in their custody (44 U.S.C. 2905).

(b) No Federal records shall be destroyed or otherwise alienated from the Government except in accordance with procedures described in this part 1228 (44 U.S.C. 3314).

§ 1228.22 Developing records schedules.

The primary steps in developing agency records schedules are given below. Details in each step are contained in the NARA records management handbook, *Disposition of Federal Records* (NSN 7610-01-055-8704). Ultimately, all records of an agency must be scheduled, but they need not all be scheduled at the same time. An agency may schedule the records of one function, program or organizational element at a time.

(a) Determine the functions and activities documented by the records to be scheduled.

(b) Prepare an inventory of the records including a description of their medium, location, volume, inclusive dates, informational content and use.

(c) Evaluate the period of time the agency needs each records series or system by reference to its uses and value to agency operations or legal obligations.

(d) Based on agency need, formulate specific recommended disposition instructions for each records series or each part of an automated information system, including file breaks, retention periods for temporary records, transfer periods for permanent records, and instructions for the retirement of records to Federal records centers, when appropriate. Recommended retention periods take into account the rights of the Government and the rights of those directly affected by agency actions.

(e) Assemble into a draft schedule the descriptions and recommended disposition instructions for logical blocks of records, i.e., entire agency, organizational component, or functional area.

(f) Obtain approval of the records schedules from NARA (and from the

General Accounting Office, when so required under Title 8 of the GAO "Policy and Procedures Manual for the Guidance of Federal Agencies").

§ 1228.24 Formulation of agency records schedules.

(a) *General.* Agency records schedules approved by the Archivist of the United States specify the disposition for agency records. Records of continuing (permanent) value will be scheduled for retention and immediate or eventual transfer to the legal custody of NARA. All other records will be scheduled for destruction or donation after a specific period of time based on administrative, fiscal, and legal values.

(b) *Characteristics of schedules.* Though records disposition authority may be requested from NARA on a program-by-program, function-by-function, or office-by-office basis, all agency records must be scheduled. Schedules must follow the guidelines provided below:

(1) Schedules shall identify and describe clearly each series or system and shall contain disposition instruction that can be readily applied. (Additional information is required for permanent records as specified in § 1228.28(b).) Schedules must be prepared so that each office will have standing instructions detailing the disposal, transfer, or retention of records.

(2) SF 115s shall include only new records not covered by the General Records Schedules (GRS) (see subpart C), deviations from the GRS (see § 1228.42), or previously scheduled records requiring changes in retention periods or substantive changes in description.

(3) All schedules shall take into account the physical organization of records or the filing system so that disposal or transfer can be handled in blocks.

(4) The disposition of nonrecord materials is controlled by instructions in the agency's printed or published records disposition manual. These instructions do not require NARA approval. Such items shall not be included on SF 115s. Non-record materials, such as extra copies of documents preserved solely for reference, and stocks of processed documents, and personal materials shall be maintained separately from official agency files to aid in records disposition.

(c) *Provisions of schedules.* Records schedules shall provide for:

(1) The destruction of records that have served their statutory, fiscal, or administrative uses and no longer have sufficient value to justify further

retention. Procedures for obtaining disposal authorizations are prescribed in § 1228.30;

(2) The removal to a Federal records center (or to an agency records center approved under subpart K) of records not eligible for immediate destruction or other disposition but which are no longer needed in office space. These records are maintained by the records center until they are eligible for further disposition action;

(3) The retention of the minimum volume of current records in office space consistent with effective and efficient operations; and

(4) The identification of records of permanent value in accordance with § 1228.28, and the establishment of cutoff periods and dates when such records will be transferred to the legal custody of NARA.

§ 1228.26 Request for records disposition authority.

(a) *Submission.* Requests for records disposition authority shall be initiated by Federal agencies by submitting Standard Form 115, Request for Records Disposition Authority, to NARA (NIR). An SF 115 is used for requesting authority to schedule (or establish the disposition for) permanent and temporary records, either on a recurring or one-time basis.

(1) New Federal agencies shall apply General Records Schedules to eligible records and shall submit to NARA SF 115s covering all remaining records within 2 years of their establishment.

(2) Agencies shall submit to NARA schedules for the records of new programs and of programs that are reorganized or otherwise in a way that results in the creation of new or different records within 1 year of the implementation of the change.

(b) *Certification.* The signature of the authorized agency representative on the SF 115 shall constitute certification that the records recommended for disposal do not or will not have sufficient administrative, legal, or fiscal value to the agency to warrant retention beyond the expiration of the specified period and that records described as having permanent value will be transferred to the National Archives upon expiration of the stated period.

(c) *Disapproval of requests for disposition authority.* Requests for records disposition authority may be returned to the agency if the SF 115 is improperly prepared. The agency shall make the necessary corrections and resubmit the form to NARA (NIR). NARA may disapprove the disposition request for an item if, after appraisal of

the records, NARA determines that the proposed disposition is not consistent with the value of the records. In such cases, NARA will notify the agency in writing.

§ 1228.28 Scheduling permanent records.

(a) *Initiation.* Federal agencies propose permanent retention of records in accordance with guidelines contained in the NARA records management handbook, *Disposition of Federal Records* (NSN 7610-01-055-8704).

(b) *Requirements.* Each item proposed for permanent retention on an SF 115 shall include the following:

- (1) Records series title used by agency personnel to identify the records;
- (2) Complete description of the records including physical type and information contents;
- (3) Inclusive dates;
- (4) An arrangement statement;
- (5) Statement of restrictions on access which NARA should impose in conformity with the Freedom of Information Act if the records are proposed for immediate transfer;
- (6) An estimate of the volume of records accumulated annually if the records are current and continuing;
- (7) The total volume to date; and
- (8) Disposition instructions, developed using the following guidelines:

(i) If the records series or system is current and continuing, the SF 115 will include a disposition instruction specifying the period of time after which the records will be transferred to the National Archives, normally within 30 years for paper records, 5-10 years for audiovisual or microform records, and as soon as the records become inactive or the agency cannot meet the maintenance requirements found in § 1228.188 of this part for electronic records.

(ii) If the records series or system is nonrecurring, i.e., no additional records will be created or acquired, the agency may propose either immediate or future transfer to the National Archives.

(c) *Determination.* NARA will determine whether or not records of permanent value and when the transfer of the permanent records will take place.

(1) If NARA determines that records are not permanent, it will notify the agency and negotiate an appropriate disposition. The disposition instruction on the SF 115 will be modified prior to NARA approval.

(2) If NARA determines that records are permanent, but that the transfer instructions are not appropriate, it will negotiate appropriate transfer terms with the agency. The disposition

instruction on the SF 115 will be modified prior to NARA approval.

§ 1228.30 Scheduling temporary records.

(a) *Initiation.* Federal agencies request authority to dispose of records, either immediately or on a recurring basis. Requests for immediate disposal are limited to records already in existence which no longer accumulate. For recurring records, approved schedules provide continuing authority to destroy the records. The retention periods approved by NARA are mandatory, and the agency shall dispose of the records after expiration of the retention period, except as provided in § 1228.54.

(b) *Requirements.* Each item on an SF 115 proposed for eventual destruction shall include the following:

- (1) Records series title used by agency personnel to identify the records;
- (2) Description of the records including physical type and informational content;
- (3) Statement of any Privacy Act restrictions on the records; and
- (4) Disposition instructions, developed using the following guidelines:
 - (i) If the records series or system is current and continuing, the SF 115 will include a disposition instruction specifying the period of time after which the records will be destroyed.
 - (ii) If the records series or system is nonrecurring, i.e., no additional records will be created or acquired, the agency may propose either immediate destruction or destruction on a future date.

(c) *Determination.* NARA may determine that records proposed as temporary merit permanent retention and transfer to the National Archives. In such cases, NARA arranges with the agency to change the disposition instruction prior to approval of the SF 115.

(d) *General Accounting Office concurrence.* Each Federal agency shall obtain the approval of the Comptroller General for the disposal of program records less than 3 years old and for certain classes of records relating to claims and demands by or against the Government, and to accounts in which the Government is concerned in accordance with the GAO "Policy and Procedures Manual for Guidance of Federal Agencies," Title 8—Records Management (44 U.S.C. 3309). This approval must be obtained before the approval of the disposal request by NARA, but the request may be submitted concurrently to GAO and NARA.

(e) *Withdrawn items.* Agencies may request that items listed on the SF 115 be withdrawn in order to aid in NARA's

processing (appraisal) of the remaining items on the schedule.

(1) If, during the course of the appraisal process, NARA determines that records described by an item(s) on the proposed schedule do not exist or are not arranged as stated on the SF 115, NARA may request the agency to withdraw the item(s) from consideration, if the agency is unable to offer sufficient clarification.

(2) If NARA and the agency cannot agree on the retention period for an item(s), the item(s) may be withdrawn. In these cases, the agency will submit an SF 115 with a revised proposal for disposition within 6 months of the date of the approval of the original SF 115.

§ 1228.32 Request to change disposition authority.

Agencies desiring to change the approved disposition of a series or system of records shall submit an SF 115. Disposition authorities contained in approved SF 115s are automatically superseded by approval of a later SF 115 applicable to the same records unless the later SF 115 specified an effective date. Agencies submitting revised schedules shall indicate on the SF 115 the relevant schedule and item numbers to be superseded, the citation to the current printed records disposition schedule, if any, and/or the General Records Schedules and item numbers which cover the records.

8. Supart C of part 1228 is revised to read as follows:

Subpart C—General Records Schedules

§ 1228.40 Authority.

The Archivist of the United States shall issue schedules authorizing disposal, after specified periods of time, of records common to several or all agencies after determining that the records lack value for continued retention by the U.S. Government. General Records Schedules constitute authority to destroy records described therein after expiration of the stated retention period. Application of the disposition instructions in these schedules is mandatory (44 U.S.C. 3303a).

§ 1228.42 Applicability.

(a) New items or changes in the disposition of GRS records supersede approved agency schedules for the same series or system of records, unless the agency schedule provides for a shorter retention period, or unless NARA indicates that the GRS standard must be applied without exception. Agencies

shall not request authority to apply GRS authorizations (see § 1228.24(b)(2)).

(b) Agencies may request exceptions to disposition instructions in the GRS by submitting an SF 115 in accordance with § 1228.30 accompanied by a written justification explaining why the agency needs the records for a different period of time from other agencies.

(c) Provisions of the General Records Schedules may be applied to records in the custody of the National Archives at NARA's discretion subject to the provisions of § 1228.200.

§ 1228.44 Current schedules.

The following General Records Schedules governing the disposition of records common to several or all agencies were developed by the National Archives and Records Administration after consultation with other appropriate agencies. They have been approved by the Archivist of the United States.

Schedule Number and Type of Records Governed

1. Civilian Personnel Records.
2. Payrolling and Pay Administration Records.
3. Procurement, Supply and Grant Records.
4. Property Disposal Records.
5. Budget Preparation, Presentation, and Apportionment Records.
6. Accountable Officers' Accounts Records.
7. Expenditure Accounting Records.
8. Stores, Plant, and Cost Accounting Records.
9. Travel and Transportation Records.
10. Motor Vehicle Maintenance and Operation Records.
11. Space and Maintenance Records.
12. Communications Records.
13. Printing, Binding, Duplication, and Distribution Records.
14. Information Services Records.
15. Housing Records.
16. Administrative Management Records.
17. Cartographic, Aerial Photographic, Architectural, and Engineering Records.
18. Security and Protective Services Records.
19. Research and Development Records: RESCINDED.
20. Electronic Records.
21. Audiovisual Records.
22. Inspector General Records.
23. Records Common to Most Offices Within Agencies.

§ 1228.46 Availability.

The GRS and instructions for their use are available from NARA (NI). The Archivist of the United States distributes new schedules and schedule revisions under sequentially numbered GRS transmittals.

9. Subpart D of Part 1228 is revised to read as follows:

Subpart D—Implementing Schedules

§ 1228.50 Application of schedules.

The application of approved schedules is mandatory (44 U.S.C. 3303a). The Archivist of the United States will determine whether or not records may be destroyed or transferred to the National Archives. If the Archivist approves the request for disposition authority, NARA will notify the agency by returning one copy of the completed SF 115. This shall constitute mandatory authority for the final disposition of the records (for withdrawal of disposal authority or the extension of retention periods, see §§ 1228.52 and 1228.54). The authorized destruction shall be accomplished as prescribed in § 1228.58. The head of each Federal agency shall direct the application of records schedules to ensure the agency maintains recorded information necessary to conduct Government business, avoid waste, and preserve permanent records for transfer to the National Archives. The agency head shall take the following steps to ensure proper dissemination and application of approved schedules:

(a) Issue an agency directive incorporating the disposition authorities approved by NARA, i.e., SF 115s (except for one-time authorities covering nonrecurring records) and the General Records Schedules. Also include nonrecord materials with disposition instructions developed by the agency. Once all records and nonrecord materials are included, this document is the agency's comprehensive schedule. Agencies may also issue other directives containing instructions relating to agency records disposition procedures.

(1) Published schedules do not include nonrecurring records for which NARA has granted authority for immediate disposal or transfer to the National Archives. They do include general instructions for retirement of records to the Federal records centers, transfer of records to the National Archives, and other records disposition procedures.

(2) Comprehensive schedules are formally published manuals or directives that provide for the disposition of all recurring records and nonrecord materials created by an agency. These schedules must cite the GRS or SF 115 and item numbers that provide the legal disposition authority for items covering record material.

(3) Prior to issuance, agencies may consult with NARA concerning directives or other issuances containing approved schedules, instructions for use of the Federal records centers, transfer of records to the National Archives, or

other matters covered by NARA procedures or regulations.

(4) Agencies shall forward to the National Archives and Records Administration (NIR) three copies of each final directive or other issuance relating to records disposition and 20 copies of all published records schedules (printed agency manuals) and changes.

(b) Establish internal training programs to acquaint appropriate personnel with the requirements and procedures of the records disposition program.

(c) Apply the approved records disposition schedules to the agency's records.

(1) Records described by items marked "disposition not approved" or "withdrawn" may not be destroyed until a specific disposition has been approved by NARA.

(2) Disposition authorities for items on approved SF 115s that specify an organizational component of the department or independent agency as the creator or custodian of the records may be applied to the same records after internal reorganization, but only if the nature, content, and functional importance of the records remain the same. Authority approved for items described in a functional format may be applied to any organizational component within the department or independent agency that is responsible for the relevant function.

(3) Disposition authorities approved for one department or independent agency may not be applied by another. Departments or agencies that acquire records from another department or agency, and/or continue creating the same series of records previously created by another department or agency through interagency reorganization must submit an SF 115 to NARA for disposition authorization for the records within one year of the reorganization.

(4) Unless otherwise specified, disposition authorities apply retroactively to all existing records as described in the schedule, including records acquired by transfer of function within or between agencies, as long as the nature, content, and functional importance of the records series is unchanged.

(d) Review approved schedules, and, if necessary, update them annually. Additions and changes to the GRS shall be incorporated or otherwise disseminated within 6 months of issuance from NARA.

§ 1228.52 Withdrawal of disposal authority.

In an emergency or in the interest of efficiency of Government operations, NARA will withdraw disposal authorizations in approved disposal schedules (44 U.S.C. 2909). This withdrawal may apply to particular items on schedules submitted by agencies or may apply to all existing authorizations for the disposal of a specified type of record obtained by any or all agencies of the Government. If the withdrawal is applicable to only one agency, that agency will be notified of this action by letter signed by the Archivist; if applicable to more than one agency, notification may be by NARA bulletin issued and signed by the Archivist.

§ 1228.54 Temporary extension of retention periods.

(a) Approved agency records schedules and the General Records Schedules are mandatory (44 U.S.C. 3303a). Except as specified in paragraph (g) of this section, records series or systems approved for destruction shall not be maintained longer without the prior written approval of the National Archives and Records Administration (NIR). However, extended retention of individual shipments of records to a Federal records center are governed by procedures in § 1228.164(c).

(b) Upon submission of adequate justification, NARA may authorize a Federal agency to extend the retention period of a series or system of records (44 U.S.C. 2909). These extensions of retention periods will be granted for records which are required to conduct Government operations because of special circumstances which alter the normal administrative, legal, or fiscal value of the records.

(c) The head of a Federal agency may request approval of a temporary extension of a retention period by sending a letter to NARA (NIR), Washington DC 20408. The request shall include:

- (1) A concise description of the records series for which the extension is requested.
- (2) A complete citation of the specific provisions of the agency records schedule or the General Records Schedule currently governing disposition of the records;
- (3) A statement of the estimated period of time that the records will be required; and
- (4) A statement of the current and proposed physical location of the records including information on whether the records have been or will

be transferred to one or more Federal records centers.

(d) Approval of a request for extension of retention periods may apply to records in the custody of one Federal agency or records common to several or all Federal agencies. If approval of a request is applicable to records in the custody of one agency, that agency will be notified by letter. If approval is applicable to records common to several agencies, notification may be made by NARA bulletin.

(e) Upon approval of a request for a change in retention periods applicable to records that have been or will be transferred to one or more Federal records centers, centers will be notified of the change and agencies will be furnished a copy of the notification. Agencies shall forward to the National Archives and Records Administration (NIR) 20 copies of all formally issued instructions which extend retention periods.

(f) Upon expiration of an approved extension of retention period, NARA will notify all affected agencies to apply normal retention requirements.

(g) Prior written approval of the National Archives and Records Administration is not required when records must be retained longer than their scheduled retention period because of court order. In such cases, agencies shall submit a report transmitting a copy of the court order to the National Archives and Records Administration (NIR) of the extension within 30 days after issuance of the court order. The notification shall include the information specified in paragraph (c) of this section.

§ 1228.56 Transfer of permanent records.

All records scheduled as permanent shall be transferred to the National Archives after the period specified on the SF 115 in accordance with procedures specified under subpart J.

§ 1228.58 Destruction of temporary records.

(a) *Authority.* Federal agencies are required to follow regulations issued by the Archivist of the United States governing the methods of destroying records (44 U.S.C. 3302). Only the methods described in this section shall be used.

(b) *Sale or salvage.* Paper records to be disposed of normally must be sold as wastepaper. If the records are restricted because they are national security classified or exempted from disclosure by statute, including the Privacy Act, or regulation, the wastepaper contractor must be required to pulp, macerate, shred, or otherwise definitively destroy

the information contained in the records, and their destruction must be witnessed either by a Federal employee or, if authorized by the agency that created the records, by a contractor employee. The contract for sale must prohibit the resale of all other paper records for use as records or documents. Records other than paper records (audio, visual, and data tapes, disks, and diskettes) may be salvaged and sold in the same manner and under the same conditions as paper records. All sales must be in accordance with the established procedures for the sale of surplus personal property. (See 41 CFR part 101-45, Sale, Abandonment, or Destruction of Personal Property.)

(c) *Destruction.* If the records cannot be sold advantageously or otherwise salvaged, the records may be destroyed by burning, pulping, shredding, macerating, or other suitable means.

§ 1228.60 Donation of temporary records.

(a) When the public interest will be served, a Federal agency may propose the transfer of records eligible for disposal to an appropriate person, organization, institution, corporation, or government (including a foreign government) that has requested them. Records will not be transferred without prior written approval of NARA.

(b) The head of a Federal agency shall request the approval of such a transfer by sending a letter to NARA (NIR), Washington, DC 20408. The request shall include:

- (1) The name of the department or agency, and subdivisions thereof, having custody of the records;
- (2) The name and address of the proposed recipient of the records;
- (3) A list containing:
 - (i) An identification by series or system of the records to be transferred,
 - (ii) The inclusive dates of the records,
 - (iii) The NARA disposition of job (SF 115) or GRS and item numbers that authorize disposal of the records;
- (4) A statement providing evidence:
 - (i) That the proposed transfer is in the best interests of the Government,
 - (ii) That the proposed recipient agrees not to sell the records as records or documents, and
 - (iii) That the transfer will be made without cost to the U.S. Government;
- (5) A certification that:
 - (i) The records contain no information the disclosure of which is prohibited by law or contrary to the public interest, and/or
 - (ii) That records proposed for transfer to a person or commercial business are directly pertinent to the custody or operations of properties acquired from the Government, and/or

(iii) That a foreign government desiring the records has an official interest in them.

(c) NARA will consider such request and determine whether the donation is in the public interest. Upon approval NARA will notify the requesting agency in writing. If NARA determines such a proposed donation is contrary to the public interest, the request will be denied and the agency will be notified that the records must be destroyed in accordance with the appropriate disposal authority.

Subparts F Through K—[Redesignated From Subparts E Through J]

10. In part 1228, subparts E through J are redesignated as subparts F through K and a new subpart E is added to read as follows:

Subpart E—Loan of Permanent and Unscheduled Records

§ 1228.70 Authority.

The Archivist of the United States has authority over the placement of permanent records (44 U.S.C. 2107 and 2904). As unscheduled records have not been appraised, they will be deemed permanent for the purposes of this section and are also covered by this authority.

§ 1228.72 Approval.

No permanent or unscheduled records shall be loaned to non-Federal recipients without prior written approval from NARA. This authorization is not required for temporary loan of permanent and unscheduled records between Federal agencies.

§ 1228.74 Agency request.

The head of a Federal agency shall request approval for the loan by sending a letter to NARA (NI), Washington, DC 20408. The request will include:

(a) The name of the department or agency and subdivisions thereof, having custody of the records;

(b) The name and address of the proposed recipient of the records;

(c) A list containing:

(1) An identification by series or system of the records to be loaned,

(2) The inclusive dates of each series, and

(3) The NARA disposition job (SF 115) and item numbers covering the records, if any;

(d) A statement of the purpose and duration of the loan; and

(e) A statement specifying any restrictions on the use of the records and how these restrictions will be administered by the donee.

(f) A certification that the records will be stored according to the environmental specifications for archival records.

§ 1228.76 NARA action on request.

The Archivist of the United States shall be a signator on all formally executed loan agreements for permanent and unscheduled records. Such agreements shall not be implemented until the Archivist has signed. NARA will deny the request if the records should be transferred to the National Archives or if the loan would endanger the records or otherwise contravene the regulations in 36 CFR Chapter XII, Subchapter B. If the request is denied, the Archivist will notify the agency in writing and provide instructions for the disposition of the records.

11. In newly redesignated subpart F, § 1228.92, paragraphs (a), (b), and (d) are revised to read as follows:

§ 1228.92 Menaces to human life or health or to property.

(a) Agencies may destroy records that constitute a continuing menace to human health or life or to property (44 U.S.C. 3310). When such records are identified, the agency head shall notify NARA (NIR), specifying the nature of the records, their location and quantity, and the nature of the menace. If NARA concurs in the determination, the Archivist will direct the immediate destruction of the records or other appropriate means of destroying the recorded information. However, if the records are still or motion picture film on nitrocellulose base that has deteriorated to the extent described in paragraph (b) of this section, the head of the agency may follow the procedure therein provided.

(b) Whenever any radarscope, aerial, or other still or motion picture film on nitrocellulose base has deteriorated to the extent that it is soft and sticky, is emitting a noxious odor, contains gas bubbles, or has retrograded into acrid powder, and the head of the agency having custody of it shall determine that it constitutes a menace to human health or life or to property, then the agency shall without prior authorization of the Archivist:

(1) Arrange for its destruction in a manner that will salvage its silver content if the silver content is of sufficient quantity and market value per troy ounce to warrant such salvage;

(2) Authorize burial in approved landfills, in the event the quantity is not sufficiently large to justify the salvaging of its silver content; or

(3) Effect other appropriate methods in the event that the methods provided

in paragraph (b)(1) or (2) of this section are not feasible.

(d) Within 30 days after the destruction of the film as provided in this section, the head of the agency who directed its destruction shall submit a written statement to NARA (NIR), Washington, DC 20408, describing the film and showing when, where, and how the destruction was accomplished.

12. In newly redesignated subpart F, § 1228.94 is revised to read as follows:

§ 1228.94 State of war or threatened war.

(a) Destruction of records outside the territorial limits of the continental United States is authorized whenever, during a state of war between the United States and any other nation or when hostile action by a foreign power appears imminent, the head of the agency that has custody of the records determines that their retention would be prejudicial to the interest of the United States, or that they occupy space urgently needed for military purposes and are without sufficient administrative, legal, research, or other value to warrant their continued preservation (44 U.S.C. 3311).

(b) Within 6 months after the destruction of any records under this authorization, a written statement describing the character of the records and showing when and where the disposal was accomplished shall be submitted to NARA (NIR) by the agency official who directed the disposal.

13. Redesignated subpart G of part 1228 is retitled to read as follows:

Subpart G—Damage to, Alienation, and Unauthorized Destruction of Records

14. In redesignated subpart G, §§ 1228.100 and 1228.102 are revised to read as follows:

§ 1228.100 Responsibilities.

(a) The Archivist of the United States and the heads of Federal agencies are responsible for preventing the alienation or unauthorized destruction of records, including all forms of mutilation. Records may not be removed from Federal custody or destroyed without regard to the provisions of agency records schedules (SF 115) approved by NARA or the General Records Schedules issued by NARA (44 U.S.C. 2905, 3106, and 3303a).

(b) The heads of Federal agencies are responsible for ensuring that all employees are aware of the provisions of the law relating to unauthorized destruction, alienation, or mutilation of

records, and should direct that any such action be reported to them.

§ 1228.102 Criminal Penalties.

The maximum penalty for the willful and unlawful destruction, damage, or alienation of Federal records is a \$2,000 fine, 3 years in prison, or both (18 U.S.C. 2071).

15. In redesignated subpart G, § 1228.104 is amended by revising the introductory sentences in paragraph (a) and paragraphs (a)(3) and (a)(4) and by adding paragraph (a)(5) to read as follows:

§ 1228.104 Reporting.

(a) The head of a Federal agency shall report any unlawful or accidental destruction, defacing, alteration, or removal of records in the custody of that agency to NARA (NIR) Washington, DC 20408. The report shall include:

(3) A statement of the exact circumstances surrounding the alienation, defacing, or destruction of the records;

(4) A statement of the safeguards established to prevent further loss of documentation; and

(5) When appropriate, details of the actions taken to salvage, retrieve, or reconstruct the records.

16. In redesignated subpart H, § 1228.124, the word "and" is added to the end of paragraph (d), paragraph (f) is removed, and paragraph (e) is revised to read as follows:

§ 1228.124 Agency request.

(e) A justification for the transfer including an explanation of why it is in the best interests of the Government.

17. In redesignated subpart H, § 1228.136 is revised to read as follows:

§ 1228.136 Exceptions.

Prior written approval of NARA is not required when:

(a) Records are transferred to Federal records centers or the National Archives in accordance with subparts I and J.

(b) Records are loaned for official use.

(c) The transfer of records or functions or both is required by statute, Executive Order, Presidential reorganization plan, or Treaty, or by specific determinations made thereunder.

(d) The records are transferred between two components of the same Executive department.

(e) Records accessioned by the National Archives, later found to lack sufficient value for continued retention by the National Archives are governed

exclusively for further disposition in accordance with § 1228.200.

18. In redesignated subpart I, § 1228.152, paragraph (a)(1)(i) is revised to read as follows:

§ 1228.152 Procedures for transfers to Federal records centers.

• • • • •

(a) • • •

(1) • • •

(i) Requests for exceptions for unscheduled records will be considered only if an SF 115 has been submitted and accepted in accordance with the provisions of subpart C. The request must include information on the volume of the records and the anticipated reference activity.

• • • • •

19. In redesignated subpart I, § 1228.164(b) and (c) are revised to read as follows:

§ 1228.164 Disposal clearances for records in Federal records centers.

• • • • •

(b) Contingent records (records of Federal agencies scheduled for destruction after occurrence of an event at some unspecified time in the future) held by Federal records centers will be destroyed upon receipt of agency concurrence in response to NA Form 13000, Agency Review for Contingent Disposal, or other written concurrence. If the agency does not respond to the review notice within 90 calendar days, the records center may return the records to the agency and reject future transfers of that records series.

(c) Other records of Federal agencies held by Federal records centers will be destroyed with the concurrence of the agency concerned by use of NA Form 13001, Notice of Intent to Destroy Records, or other written concurrence for each disposal action. If an agency is notified of the eligibility of its records for disposal and the agency fails to respond to this notification within 90 calendar days, the records will be destroyed in accordance with the appropriate disposition authority. If an agency does not concur in the scheduled destruction of an accession, the agency may request extended retention of the records by submitting written justification, including a new disposal date, within 90 days to the records center director.

Dated: June 12, 1990.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 90-15443 Filed 6-29-90; 8:45 am]

BILLING CODE 7515-01-M

36 CFR Part 1230

RIN 3095-AA22

Micrographics Records Management

AGENCY: National Archives and Records Administration.

ACTION: Final rule.

SUMMARY: The National Archives and Records Administration (NARA) is issuing revised regulations relating to microfilming Federal records and to the maintenance, use, and disposition of microform records. The rule updates references to Federal and industry micrographics standards. It also provides separate standards for microfilming and storing permanent records and temporary records and revises requirements relating to the inspection of microforms making the standards for temporary records less stringent than those for permanent records. This rule will affect Federal agencies and private contractors that microfilm records for Federal agencies.

EFFECTIVE DATE: July 1, 1990. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 1, 1990.

FOR FURTHER INFORMATION CONTACT: John A. Constance or Nancy Allard at 202-501-5110 (FTS 241-5110).

SUPPLEMENTARY INFORMATION: On September 12, 1989, NARA published a notice of proposed rulemaking (54 FR 37693) to revise and update 36 CFR part 1230. Comments were received from two Federal agencies, a micrographics industry association, a commercial supplier of test resolution charts, and one individual. All comments were carefully considered in the preparation of this final rule. Following is a discussion of the changes made in the final rule in response to these comments.

Section 1230.10 Disposition authorization

Section 1230.10 has been rewritten to clarify disposition, requirements for permanent (or unscheduled) records and temporary records. Agencies must schedule the disposition of permanent and unscheduled original (source) and microform records before disposing of the original records. The Standard Form 115, Request for Records Disposition Authority, used to schedule the records may be submitted either before or after the microfilming takes place. NARA cautions agencies that authority to dispose of the original record will not be given when NARA determines that the original records have intrinsic value or

when NARA concludes that the microforms present reference problems because of access restrictions, including security classification, or other characteristics of the original records.

Agencies do not need to obtain further NARA authorization for the disposition of microform copies of scheduled temporary records. The retention period for temporary paper records is applied to the microform copies of those records; the originals may be destroyed upon verification of the microforms unless legal requirements preclude early destruction of the originals. We have deleted the sentence relating to destruction of records in a Federal Records Center (FRC) because it was unclear. When notified by the agency, the FRC will dispose of original records that have been microfilmed.

One commenter recommended that NARA should not allow agencies to microfilm unscheduled records. We have not adopted this comment; however, prompt scheduling is advisable since unscheduled records must be treated as permanent. Agencies may set internal rules that limit microfilming to scheduled records.

Section 1230.12 Preparatory Steps Prior to Filming

In response to comments that there may be insufficient room on the microfiche header to place the required titling information, we have modified § 1230.12(b) to allow frame 1 of a microfiche to be used for the titling information. In § 1230.12(c) we have dropped the requirement for signatures of the camera operators. One commenter asked NARA to better define the person authorizing the microfilming. We believe that the agency can determine when a microfilming project is approved and who the approving official is.

We have reorganized § 1230.12 (d) and (e) to clearly distinguish between source document filming and computer output microform (COM) filming, as suggested by several commenters. We have also adopted comments that indexes should be placed at the end of a microfilm or microfiche.

Section 1230.14 Film and Image Requirements for Permanent Records or Unscheduled Records

We have modified § 1230.14(a) to provide that original paper records may be disposed of by methods other than destruction, such as donation. We have clarified that the film stock standard in § 1230.14(b) is the standard for archival film. In § 1230.14(d), we have separated the resolution standards for microforms of source documents and for COM. We

have also added a quality standard for base plus fog density of films.

Two commenters recommended that we modify the requirement in § 1230.14(d)(1)(i) to use NBS-SRM 1010a (now NIST-SRM 1010a) for resolution tests to allow the use of test charts from other sources. One commenter was concerned that special test charts were more appropriate for microforms of specialized records; the other commenter felt that specifying the NIST-SRM 1010a was too restrictive. We have not adopted the recommendation because a certified test chart (the NIST-SRM 1010a) must be used to ensure a standard reading of the resolution. The National Institute of Standards and Technology (NIST), which certifies the test chart, obtains the charts through a competitive bid process. For additional quality control, agencies may use other test charts in addition to the NIST-SRM 1010a.

Section 1230.16 Film and Image Requirements for Temporary Records, Duplicates, and User Copies

We have deleted the listing of the types of films that are suitable for temporary microforms at the suggestion of one commenter. We have added to § 1230.16(b) a distinction between film that is to be kept for more than 10 years and short-term film.

Section 1230.22 Inspection

One commenter recommended that agencies send the camera original or a silver duplicate and one diazo copy of any permanent record to NARA immediately after verification of the film. NARA would then be responsible for inspection of film and adhering to storage standards. We have not adopted this comment. When records are accessioned into the National Archives of the United States, legal custody transfers to NARA. NARA does not normally accession records while the agency is actively using them (or a microform copy of them) for current business. Another commenter recommended that when NARA requires an agency to transfer permanent microfilm immediately to a Federal Records Center (FRC), NARA should waive the requirement for the agency to inspect the film. NARA does not require agencies to transfer permanent microfilm immediately to an FRC. Since NARA policy is to require the agency to perform the first inspection whether the microforms are in agency or FRC space, we have not adopted this comment. We note that the regulation being replaced requires agencies to inspect the microforms throughout their storage in an FRC; under this regulation, NARA

will assume responsibility for inspection of transferred microforms after the initial inspection.

One commenter recommended that paragraph (b) of this section be deleted because inspection of temporary records was only recommended, not mandated. Another commenter recommended that paragraph (b) be expanded and made mandatory since some temporary records are kept for very long periods. We have not changed the provision. We do not want to impose an additional burden on agencies by requiring inspection of temporary records since most temporary records are not kept for very long periods. Agencies may adopt internal rules requiring periodic inspection of their temporary records.

Other

We have not adopted a comment that agencies which have established their own microfilming standards, e.g. Department of Defense MilSpecs, be allowed to substitute those standards for the standards in this part. We also have not adopted a comment that this part be extended to address optical disk technology.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1230

Archives and records, Incorporation by reference, Micrographics.

For the reasons set forth in the preamble, part 1230 of title 36 of the Code of Federal Regulations is amended as follows:

PART 1230—MICROGRAPHICS

1. The authority statement for part 1230 continues to read as follows:

Authority: 44 U.S.C. 2907, 3302 and 3312.

2. Subparts A, B, and C are redesignated as subparts B, C, and D respectively, §§ 1230.1, 1230.2 and 1230.4 are designated as new subpart A and revised, and § 1230.3 is added to read as follows:

Subpart A—General

Sec.

1230.1 Scope of part.

1230.2 Authority.

1230.3 Publications incorporated by reference.

1230.4 Definitions.

§ 1230.1 Scope of part.

This part provides standards for using micrographic technology in the creation, use, storage, retrieval, preservation, and disposition of Federal records. Agencies should also consult 41 CFR subpart 201-45.1 for General Services Administration (GSA) requirements relating to micrographics management for Federal records.

§ 1230.2 Authority.

As provided in 44 U.S.C. Chapters 29 and 33, the Archivist of the United States is authorized to establish standards for the reproduction of records by photographic and microphotographic processes with a view to the disposal of original records; to establish uniform standards within the Government for the creation, storage, use, and disposition of processed microform records; and to establish, maintain, and operate centralized microfilming services for Federal agencies.

§ 1230.3 Publications incorporated by reference.

(a) *General.* The following publications cited in this part are hereby incorporated by reference. They are available from the issuing organization at the addresses listed in this section. They are also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, DC 20408. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and a notice of any change in these materials will be published in the *Federal Register*.

(b) *American National Standard Institute (ANSI) and International (ISO) Standards.* ANSI and ISO standards cited in this part are available from the American National Standards Institute, 1430 Broadway, New York City, NY 10018.

ANSI IT9.1-1989, Imaging Media (Film)—Silver-Gelatin Type—Specifications for Stability.

ANSI IT9.2-1988, Imaging Media—Photographic Processed Films, Plates, and Papers—Filing Enclosures and Storage Containers.

ANSI IT9.5-1988, Imaging Media (Film)—Ammonia-Processed Diazo Films—Specifications for Stability.

ANSI PH1.43-1985, Photography (Film)—Processed Safety Film—Storage.

ANSI PH1.67-1985, Photography (Film)—Processed Vesicular Film—Specifications for Stability.

ANSI/ISO 5/2-1985, ANSI PH2.19-1986, Photography (Sensitometry)—Density

Measurements—Geometric Conditions for Transmission Density.

ANSI/ISO 5/3-1984, ANSI PH2.18-1985, Photography (Sensitometry)—Density Measurements—Spectral Conditions.

ISO 3334-1989, Micrographics—ISO resolution test chart No. 2—Description and use.

(c) *Association of Information and Image Management (AIIM) Standards.* The following AIIM standards are available from the Association for Information and Image Management, 1100 Wayne Avenue, Suite 1100, Silver Spring, MD 20910.

ANSI/AIIM MS1-1988, Recommended Practices for Alphanumeric Computer-Output Microforms—Operational Practices for Inspection and Quality Control.

ANSI/AIIM MS5-1985, Micrographics—Microfiche.

ANSI/AIIM MS14-1988, Specifications for 16mm and 35mm Roll Microfilm.

ANSI/AIIM MS19-1987, Recommended Practice for Identification of Microforms.

ANSI/AIIM MS23-1983, Practice for Operational Procedures/Inspection and Quality Control of First Generation, Silver-Gelatin Microfilm of Documents.

ANSI/AIIM MS32-1987, Microrecording of Engineering Source Documents on 35mm Microfilm.

ANSI/AIIM MS41-1988, Unitized Microfilm Carriers (Aperture, Camera, Copy, and Image Cards).

ANSI/AIIM MS43-1988, Recommended Practice for Operational Procedures/Inspection and Quality Control of Duplicate Microforms of Documents and From COM.

AIIM special Interest Package (SIP) No. 34, July, 1987, Microspots and Aging Blemishes.

(d) *National Institute of Standards and Technology (NIST) publications.* The following publication is available from the National Institute of Standards and Technology, Office of Standard Reference Materials, Rm. B311 Chemistry, Gaithersburg, MD 20899.

NIST-SRM 1010a, Microcopy Resolution Test Chart (ISO Test Chart No. 2), certified June 1, 1990.

§ 1230.4 Definitions.

For the purpose of this part the following definitions shall apply:

Archival microfilm. A photographic film that meets the standards described in § 1230.14 and that is suitable for the preservation of permanent records when stored in accordance with § 1230.20.

Archival storage conditions. Storage conditions, as specified in § 1230.20(a), that are suitable for the preservation of photographic film appraised as having permanent value. Archival storage conditions prolong the useful life of both permanent and temporary photographic records.

Computer Output Microfilm (COM). Microfilm containing data produced by a

recorder from computer generated signals.

Facility. An area set aside for equipment and operations required in the production or reproduction of microforms either for internal use or for the use of other organizational elements of the Federal Government.

Long-term film. A photographic film that meets the standards described in ANSI IT9.1-1989 for "long-term film" and that is suitable for the preservation of temporary records for more than 10 years.

Microfilm. (a) Raw (unexposed and unprocessed) fine-grain, high resolution photographic film with characteristics that make it suitable for use in micrographics;

(b) The process of recording microimages on film; or

(c) A fine-grain, high resolution photographic film containing an image greatly reduced in size from the original.

Microform. A term used for any form containing microimages.

Microimage. A unit of information such as a page of text or a drawing, that has been made too small to be read without magnification.

Permanent record. Any record (see definition in 44 U.S.C. 3301) that has been determined by the Archivist of the United States to have sufficient historical or other value to warrant its continued preservation by the Government.

Temporary record. Any record approved by the Archivist of the United States for disposal, either immediately or after a specified retention period. Temporary records may warrant microfilming for economies of storage and distribution.

Unscheduled record. Any record that has not been appraised by NARA, i.e., a record that has neither been approved for disposal nor designated as permanent by the Archivist of the United States in accordance with part 1228 of this chapter.

Use or work copies. Duplicates of original film which are prepared for use as reference copies or as duplication masters for recurring or large-scale duplication. These copies are not to be confused with the preservation master copies which are stored under the conditions in § 1230.20 and which are not to be used for reference purposes.

3. Newly redesignated subpart B is revised to read as follows:

Subpart B—Standards for Microfilming Records

Sec.

1230.10 Disposition authorization.

1230.12 Preparatory steps prior to filming.

Sec.

1230.14 Film and image requirements for permanent records or unscheduled records.

1230.16 Film and image requirements for temporary records, duplicates, and user copies.

Subpart B—Standards for Microfilming Records

§ 1230.10 Disposition authorization.

(a) *Permanent or unscheduled records.* Agencies must schedule the disposition of both source documents (originals) and microforms by submitting Standard Form (SF) 115, Request for Records Disposition Authority, to NARA in accordance with part 1228 of this chapter. Source documents may not be disposed of before NARA authorization is received. The original records shall not be destroyed after microfilming when NARA determines that the original records have intrinsic value or when NARA concludes that the microforms present reference problems because of the access restrictions, including security classification, or other characteristics of the original records.

(1) Agencies using microfilming methods and procedures meeting the standards in § 1230.14 shall include on the SF 115 the following certification: "This certifies that the records described on this form were (or will be) microfilmed in accordance with the standards set forth in 36 CFR part 1230."

(2) Agencies using microfilming methods, materials and procedures that do not meet the standards in § 1230.14(a) shall include on the SF 115 a description of the system and standards used.

(3) Agencies proposing to retain and store the silver original microforms of permanent records after disposal of the original records shall include on the SF 115 a statement that the agency's storage conditions shall comply with the standards of § 1230.20 and that the inspections required by § 1230.22 will be performed.

(b) *Temporary records.* Agencies do not need to obtain further NARA approval before disposing of scheduled temporary records that have been microfilmed. The approved retention period for temporary records shall be applied to microform copies of such records; the original records shall be destroyed upon verification of the microfilm, unless legal requirements preclude early destruction of the originals.

§ 1230.12 Preparatory steps prior to filming.

(a) The integrity of the original records authorized for disposal shall be

maintained by ensuring that the microforms are adequate substitutes for the original records and serve the purpose for which such records were created or maintained. Copies shall be complete and contain all information shown on the originals.

(b) The records shall be arranged, identified, and indexed so that any particular document or component of the records can be located. Each microform roll or fiche shall include accurate titling information on a titling target or header. At a minimum, titling information shall include the name of the agency and organization; the title of the records; the number or identifier for each unit of film; the security classification, if any; and the inclusive dates, names, or other data identifying the records to be included on a unit of film. For fiche, complete titling information may be placed as a microimage in frame 1 if the information will not fit on the header.

(c) Each microform shall contain an identification target showing the date of filming. When necessary to give the film copy better legal standing, the target shall also identify the person authorizing the microfilming. See ANSI/AIIM MS19-1987 for standards for identification targets.

(d) The following formats are mandatory standards for microforms.

(1) *Roll film—(i) Source documents.* The formats described in ANSI/AIIM MS14-1988 shall be used for microfilming source documents on 16mm and 35mm roll film. A reduction ratio of 1:24 is recommended for typewritten or correspondence type of documents. See ANSI/AIIM MS23-1983 for determining the appropriate reduction ratio and format for meeting the image quality requirements. When microfilming on 35mm film for aperture card applications, the format dimensions in AIIM/MS32-1987, Table 1 shall be mandatory and the aperture card format "D Aperture" shown in ANSI/AIIM MS41-1988, Figure 1 shall be used.

(ii) *COM.* Computer output microfilm (COM) generated images shall be the simplex mode described in ANSI/AIIM MS14-1988 at an effective ratio of 1:24 or 1:48 depending upon the application.

(2) *Microfiche.* For microfilming source documents or computer generated information (COM) on microfiche, the appropriate formats and reduction ratios prescribed in ANSI/AIIM MS5-1985 shall be used as specified for the size and quality of the documents being filmed. See ANSI/AIIM MS23-1983 for determining the appropriate reduction ratio and format for meeting the image quality requirements.

(e) *Index placement.*—(1) *Source documents.* When filming original (source) documents, all indexes, registers, or other finding aids, if microfilmed, shall be placed either in the first frames of the first roll of film or in the last frames of the last roll of film of a series or in the last frames of the last microfiche or microfilm jacket of a series.

(2) *COM.* Computer-generated microforms shall have the indexes following the data on a roll of film or in the last frames of a single microfiche, or the last frames of the last fiche in a series. Other index locations may be used only if dictated by special system constraints.

§ 1230.14 Film and image requirements for permanent records or unscheduled records.

(a) *Application.* The following standards shall apply to the microfilming of permanent records where the original paper record will be destroyed or otherwise disposed of. Systems that produce original permanent records on microfilm with no paper originals, such as computer output microfilm (COM), shall be designed so that they produce microfilm which meets the standards of this section. Unscheduled records from systems such as COM must also meet the standards of this section. Prior NARA approval of a SF 115 is required before unscheduled paper records are disposed of after microfilming.

(b) *Film stock standards.* Only polyester-based silver gelatin type film that conforms to ANSI IT9.1-1989 for archival film shall be used in all applications, except when generating film to be spliced to existing rolls of cellulose film, when cellulose triacetate film that conforms to ANSI IT9.1-1989 shall be used. To ensure protection for permanent records, agencies using microfilm systems which do not produce silver gelatin originals meeting these standards shall submit with the Standard Form 115 required by § 1230.10 a schedule for the production of silver gelatin duplicates meeting the standards.

(c) *Processing standards.* Microforms shall be processed so that the residual thiosulfate ion concentration will not exceed 0.014 grams per square meter in accordance with ANSI IT9.1-1989. Processing shall be in accordance with processing procedures in ANSI/AIIM MS1-1988 and MS23-1983.

(d) *Quality standards.*—(1) *Resolution.*—(i) *Source documents.* The method for determining minimum resolution on microforms of source

documents shall conform to the Quality Index Method for determining resolution and anticipated losses when duplicating as described in ANSI/AIIM MS23-1983 and MS43-1988. Resolution tests shall be performed using a NIST-SRM 1010a, Microcopy Resolution Test Chart (a calibrated and certified photographic reproduction) as specified in ISO 3334-1989 (the standard practice for using the test chart), and the patterns will be read following the instructions of ISO 3334-

1989. The character used to determine the height used in the Quality Index formula shall be the smallest character used to display information. A Quality Index of five is required at the third generation level.

(ii) *COM*. Computer output microforms (COM) shall meet the requirements of ANSI/AIIM MS1-1988.

(2) *Background density of images*. The background ISO standard visual diffuse transmission density on microforms

shall be appropriate to the type of documents being filmed. The procedure for density measurement is described in ANSI/AIIM MS23-1983 and the densitometer shall be in accordance with ANSI/ISO 5/3-1984, for spectral conditions and ANSI/ISO 5/2-1985, for geometric conditions for transmission density. Recommended visual diffuse transmission background densities for images of documents are as follows:

Classification	Description of document	Background density
Group 1	High-quality, high-contrast printed books, periodicals, and black typing	1.3-1.5
Group 2	Fine-line originals, black opaque pencil writing, and documents with small high-contrast printing	1.15-1.4
Group 3	Pencil and ink drawings, faded printing, and very small printing, such as footnotes at the bottom of a printed page	1.0-1.2
Group 4	Low-contrast manuscripts and drawings, graph paper with pale, fine-colored lines; letters typed with a worn ribbon; and poorly printed, faint documents	0.8-1.0
Group 5	Poor-contrast documents (special exception)	0.7-0.85

Recommended visual diffuse transmission densities for computer generated images are as follows:

Film type	Process	Density measurement method	Min. Dmax*	Max. Dmin*	Minimum density difference
Silver gelatin	Conventional	Printing or diffuse	0.75	0.15	0.60
Silver gelatin	Full reversal	Printing	1.50	0.20	1.30

*Character or line density, measured with a microdensitometer or by comparing the film under a microscope with an image of a known density.

(3) *Base plus fog density of films*. The base plus fog density of unexposed, processed films should not exceed 0.10. When a tinted base film is used, the density will be increased. The difference must be added to the values given in the tables in paragraph (d)(2) of this section.

(4) *Line or Stroke Width*. Due to optical limitations in most photographic systems, film images of thin lines appearing in the original document will tend to fill in as a function of their width and density. Therefore, as the reduction ratio of a given system is increased, the background density shall be reduced as needed to ensure that the copies produced will contain legible characters.

§ 1230.16 Film and image requirements for temporary records, duplicates, and user copies.

(a) *Film stocks*. The preferred film stock for all microforms is specified in § 1230.14(b). However, for economic reasons and systems applications, other film types may be better suited for microforms containing temporary records, and for duplicates and user copies.

(b) *Processing*. If film is to be kept for more than 10 years, silver gelatin film must be used for filming and the film

must be processed according to ANSI IT 9.1-1989, "long-term film." For films to be kept less than 10 years, use manufacturer's instructions. For vesicular films, use ANSI PH1.67-1985 for guidance. For diazo films, use ANSI IT9.5-1988 for guidance.

(c) *Quality Standards*.—(1) *Resolution*. See § 1230.14 (d)(1) for method of determining resolution. A Quality Index of five is recommended at the level of the specific number of generations used in the system for temporary records, duplicates and user copies.

(2) *Background density of images*. The densities recommended in § 1230.14 (d)(2) apply to microforms of temporary records, duplicates and user copies. However, a ten percent per generation wider range is acceptable.

(i) For diazo and electrophotographic films, the ISO standard visual diffuse transmission density shall be measured in accordance with ANSI/ISO 5/3-1984, for spectral conditions and ANSI/ISO 5/2-1985, for geometric conditions.

(ii) For vesicular and other light scattering films, the ISO standard for f/4.5 projection transmission density shall be measured in accordance with ANSI/

ISO 5/2-1985, for geometric conditions for transmission density.

7. Newly redesignated subpart C is revised to read as follows:

Subpart C—Standards for the Storage, Use and Disposition of Microform Records.

Sec.

1230.20 Storage.

1230.22 Inspection.

1230.24 Use of microform records.

1230.26 Disposition of microform records.

Subpart C—Standards for the Storage, Use and Disposition of Microform Records

§ 1230.20 Storage.

(a) *Permanent records*. The conditions specified in ANSI PH1.43-1985 and ANSI IT9.2-1988, are required for storing permanent microform records.

(b) *Temporary records*. Temporary microform records can be stored under the same conditions as temporary paper records.

§ 1230.22 Inspection.

(a) *Permanent and unscheduled records*.

(1) Master films of permanent records microfilmed in order to dispose of the

original record and master films of permanent records originally created on microfilm shall be inspected when 2 years old and, until they are transferred to a Federal records center or to the National Archives, every 2 years thereafter. The inspection shall be made on a randomly selected sample consisting of 1000 microform units, or 1 percent of the total number of microform units in the batch, whichever is smaller. At least one microform unit must be inspected in batches of less than 100 units. The term "microform unit" refers to a single roll of microfilm, a microfiche, or similar appropriate unit for inspection. The term "batch" refers to microform units which were processed on the same equipment within a short time span and which have been stored together in the same environment since their creation.

(2) Microforms cannot be accepted for deposit with the National Archives of the United States until the first inspection (occurring after the microforms are 2 years old) has been performed. Permanent microforms may be transferred to a Federal records center only after the agency has performed the first inspection or has certified that the microforms will be inspected by the agency, an agency contractor, or the Federal records center (on a reimbursable basis) when they become 2 years old.

(3) To facilitate inspection, an inventory of microfilm must be maintained, listing each microform series/publication by production date, producer, processor, format, and results of previous inspections.

(4) The elements of the inspection shall consist of:

(i) An inspection for aging blemishes following the guidelines in the AIIM/SIP34-1987;

(ii) A rereading of resolution targets;

(iii) A remeasurement of density; and

(iv) A certification of the environmental conditions under which the microforms are stored, as specified in § 1230.20(a).

(5) An inspection log shall be maintained and furnished in hard copy form to NARA in accordance with § 1230.26(b). Information to be contained in the log shall include:

- (i) A complete description of all records tested (title; number or identifier for each unit of film; security classification, if any; and inclusive dates, names, or other data identifying the records on the unit of film);
- (ii) The date of inspection;
- (iii) The elements of inspection;
- (iv) Any defects uncovered; and
- (v) The corrective action taken.

In addition, the log shall contain the results of all archival film tests required by § 1230.14.

(6) A copy of the inspection report shall be furnished to NARA in accordance with § 1230.26(b). The inspection report shall include:

- (i) The quantity of microform records on hand, i.e., number of rolls and number of microfiche;
- (ii) The quantity of microforms inspected;
- (iii) The condition of the microforms;
- (iv) A summary of any defects discovered; and
- (v) A summary of corrective action taken.

(7) An agency having in its custody a master microform that is deteriorating, as shown by the inspection, shall prepare a silver duplicate in accordance with § 1230.14 to replace the deteriorating master. The duplicate film will be subject to the 2-year inspection requirement before transfer to a Federal Record Center or to the National Archives.

(8) Inspection should be performed in an environmentally controlled area which avoids pollutant gases and particulates, temperatures in excess of 70 °F (20 °C) or relative humidities above 55%.

(b) *Temporary records.* Inspection by sampling procedures described in § 1230.22(a) is recommended but not required.

§ 1230.24 Use of microform records.

(a) The master microform shall not be used for reference purposes. Duplicates shall be used for reference and for further duplication on a recurring basis or for large-scale duplication, as well as for distribution of records on microform. Agency procedures shall ensure that master microforms remain clean and

undamaged during the duplication process.

(b) Agencies retaining the original record in accordance with an approved records disposition schedule may apply agency standards for the use of microform records.

§ 1230.26 Disposition of microform records.

The disposition of microform records shall be carried out in the same manner prescribed for other types of records in part 1228 of this chapter with the following additional requirements:

(a) The silver gelatin original (or a silver gelatin duplicate negative microform record created in accordance with § 1230.14) plus one microform copy of each permanent or unscheduled record microfilmed by an agency, shall be transferred to an approved agency records center, the National Archives, or to a Federal records center, at the time that the records are to be retired in accordance with the approved records disposition schedule. Non-silver copies must be packaged separately and stored separately from silver originals.

(b) The microforms shall be accompanied by:

(1) Information identifying the agency and organization; the title of the records; the number or identifier for each unit of film; the security classification, if any; the inclusive dates, names, or other data identifying the records to be included on a unit of film;

(2) Any finding aids relevant to the microform that are not contained in the microform; and

(3) The inspection log forms and inspection reports required by § 1230.22(a) (5) and (6).

(c) The information required in this paragraph (b) shall be attached to the SF 135 when records are being transferred to a Federal records center and to the SF 258 when records are being transferred to the legal custody of the National Archives.

Dated: June 18, 1990.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 90-15444 Filed 6-29-90; 8:45 am]

BILLING CODE 7515-01-M

Reader Aids

Federal Register

Vol. 55, No. 127

Monday, July 2, 1990

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230
---------------------	----------

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

27171-27440.....2

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Last List June 28, 1990

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

S. 286/Pub. L. 101-313

To establish Petroglyph National Monument and Pecos National Historical Park in the State of New Mexico, and for other purposes. (June 27, 1990; 104 Stat. 272; 9 pages)
Price: \$1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is \$620.00 domestic, \$155.00 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	\$11.00	Jan. 1, 1990
3 (1989 Compilation and Parts 100 and 101)	11.00	Jan. 1, 1990
4	16.00	Jan. 1, 1990
5 Parts:		
1-699	15.00	Jan. 1, 1990
700-1199	13.00	Jan. 1, 1990
1200-End, 6 (6 Reserved)	17.00	Jan. 1, 1990
7 Parts:		
0-26	15.00	Jan. 1, 1990
27-45	12.00	Jan. 1, 1990
46-51	17.00	Jan. 1, 1990
52	24.00	Jan. 1, 1990
53-209	19.00	Jan. 1, 1990
210-299	25.00	Jan. 1, 1990
300-399	12.00	Jan. 1, 1990
400-699	20.00	Jan. 1, 1990
700-899	22.00	Jan. 1, 1990
900-999	29.00	Jan. 1, 1990
1000-1059	16.00	Jan. 1, 1990
1060-1119	13.00	Jan. 1, 1990
1120-1199	10.00	Jan. 1, 1990
1200-1499	18.00	Jan. 1, 1990
1500-1899	11.00	Jan. 1, 1990
1900-1939	11.00	Jan. 1, 1990
1940-1949	21.00	Jan. 1, 1990
1950-1999	24.00	Jan. 1, 1990
2000-End	9.50	Jan. 1, 1990
8	14.00	Jan. 1, 1990
9 Parts:		
1-199	20.00	Jan. 1, 1990
200-End	18.00	Jan. 1, 1990
10 Parts:		
0-50	21.00	Jan. 1, 1990
51-199	17.00	Jan. 1, 1990
200-399	13.00	Jan. 1, 1987
400-499	21.00	Jan. 1, 1990
500-End	26.00	Jan. 1, 1990
11	11.00	Jan. 1, 1990
12 Parts:		
1-199	12.00	Jan. 1, 1990
200-219	12.00	Jan. 1, 1990
220-299	21.00	Jan. 1, 1990
300-499	19.00	Jan. 1, 1990
500-599	17.00	Jan. 1, 1990
600-End	17.00	Jan. 1, 1990
13	25.00	Jan. 1, 1990
14 Parts:		
1-59	25.00	Jan. 1, 1990
60-139	24.00	Jan. 1, 1990
140-199	10.00	Jan. 1, 1990
200-1199	21.00	Jan. 1, 1990

Title	Price	Revision Date
1200-End	13.00	Jan. 1, 1990
15 Parts:		
0-299	11.00	Jan. 1, 1990
300-799	22.00	Jan. 1, 1990
800-End	15.00	Jan. 1, 1990
16 Parts:		
0-149	6.00	Jan. 1, 1990
150-999	14.00	Jan. 1, 1990
1000-End	20.00	Jan. 1, 1990
17 Parts:		
1-199	15.00	Apr. 1, 1989
200-239	16.00	Apr. 1, 1990
240-End	23.00	Apr. 1, 1990
18 Parts:		
1-149	16.00	Apr. 1, 1990
150-279	16.00	Apr. 1, 1989
280-399	14.00	Apr. 1, 1990
400-End	9.50	Apr. 1, 1990
19 Parts:		
1-199	28.00	Apr. 1, 1989
200-End	9.50	Apr. 1, 1990
20 Parts:		
1-399	14.00	Apr. 1, 1990
400-499	24.00	Apr. 1, 1989
500-End	28.00	Apr. 1, 1989
21 Parts:		
1-99	13.00	Apr. 1, 1989
100-169	15.00	Apr. 1, 1990
170-199	17.00	Apr. 1, 1989
200-299	5.50	Apr. 1, 1990
300-499	28.00	Apr. 1, 1989
500-599	21.00	Apr. 1, 1989
600-799	8.00	Apr. 1, 1989
800-1299	17.00	Apr. 1, 1989
1300-End	9.00	Apr. 1, 1990
22 Parts:		
1-299	22.00	Apr. 1, 1989
300-End	17.00	Apr. 1, 1989
23	17.00	Apr. 1, 1990
24 Parts:		
0-199	20.00	Apr. 1, 1990
200-499	28.00	Apr. 1, 1989
500-699	13.00	Apr. 1, 1990
700-1699	23.00	Apr. 1, 1989
1700-End	13.00	Apr. 1, 1990
25	25.00	Apr. 1, 1989
26 Parts:		
§§ 1.0-1-1.60	15.00	Apr. 1, 1990
§§ 1.61-1.169	25.00	Apr. 1, 1989
§§ 1.170-1.300	18.00	Apr. 1, 1990
§§ 1.301-1.400	17.00	Apr. 1, 1990
§§ 1.401-1.500	29.00	Apr. 1, 1990
§§ 1.501-1.640	16.00	Apr. 1, 1989
§§ 1.641-1.850	19.00	Apr. 1, 1990
§§ 1.851-1.1000	31.00	Apr. 1, 1989
§§ 1.908-1.1000	22.00	Apr. 1, 1990
§§ 1.1001-1.1400	18.00	Apr. 1, 1990
§§ 1.1401-End	23.00	Apr. 1, 1989
2-29	21.00	Apr. 1, 1990
30-39	14.00	Apr. 1, 1989
40-49	13.00	Apr. 1, 1989
50-299	16.00	Apr. 1, 1989
300-499	17.00	Apr. 1, 1990
500-599	6.00	Apr. 1, 1990
600-End	6.50	Apr. 1, 1990
27 Parts:		
1-199	24.00	Apr. 1, 1989
200-End	14.00	Apr. 1, 1990
28	27.00	July 1, 1989

Title	Price	Revision Date	Title	Price	Revision Date
29 Parts:			101.....	24.00	July 1, 1989
0-99.....	17.00	July 1, 1989	102-200.....	11.00	July 1, 1989
100-499.....	7.50	July 1, 1989	201-End.....	13.00	July 1, 1989
500-899.....	26.00	July 1, 1989	42 Parts:		
900-1899.....	12.00	July 1, 1989	1-60.....	16.00	Oct. 1, 1989
1900-1910 (§§ 1901.1 to 1910.441).....	24.00	July 1, 1989	61-399.....	6.50	Oct. 1, 1989
1910 (§§ 1910.1000 to end).....	13.00	July 1, 1989	400-429.....	22.00	Oct. 1, 1989
1911-1925.....	9.00	July 1, 1989	430-End.....	24.00	Oct. 1, 1989
1926.....	11.00	July 1, 1989	43 Parts:		
1927-End.....	25.00	July 1, 1989	1-999.....	19.00	Oct. 1, 1989
30 Parts:			1000-3999.....	26.00	Oct. 1, 1989
0-199.....	21.00	July 1, 1989	4000-End.....	12.00	Oct. 1, 1989
200-699.....	14.00	July 1, 1989	44.....	22.00	Oct. 1, 1989
700-End.....	20.00	July 1, 1989	45 Parts:		
31 Parts:			1-199.....	16.00	Oct. 1, 1989
0-199.....	14.00	July 1, 1989	200-499.....	12.00	Oct. 1, 1989
200-End.....	18.00	July 1, 1989	500-1199.....	24.00	Oct. 1, 1989
32 Parts:			1200-End.....	18.00	Oct. 1, 1989
1-39, Vol. I.....	15.00	⁴ July 1, 1984	46 Parts:		
1-39, Vol. II.....	19.00	⁴ July 1, 1984	1-40.....	14.00	Oct. 1, 1989
1-39, Vol. III.....	18.00	⁴ July 1, 1984	41-69.....	15.00	Oct. 1, 1989
1-189.....	23.00	July 1, 1989	70-89.....	7.50	Oct. 1, 1989
190-399.....	28.00	July 1, 1989	90-139.....	12.00	Oct. 1, 1989
400-629.....	22.00	July 1, 1989	140-155.....	13.00	Oct. 1, 1989
630-699.....	13.00	July 1, 1989	156-165.....	13.00	Oct. 1, 1989
700-799.....	17.00	July 1, 1989	166-199.....	14.00	Oct. 1, 1989
800-End.....	19.00	July 1, 1989	200-499.....	20.00	Oct. 1, 1989
33 Parts:			500-End.....	11.00	Oct. 1, 1989
1-199.....	30.00	July 1, 1989	47 Parts:		
200-End.....	20.00	July 1, 1989	0-19.....	18.00	Oct. 1, 1989
34 Parts:			20-39.....	18.00	Oct. 1, 1989
1-299.....	22.00	Nov. 1, 1989	40-69.....	9.50	Oct. 1, 1989
300-399.....	14.00	Nov. 1, 1989	70-79.....	18.00	Oct. 1, 1989
400-End.....	27.00	Nov. 1, 1989	80-End.....	20.00	Oct. 1, 1989
35.....	10.00	July 1, 1989	48 Chapters:		
36 Parts:			1 (Parts 1-51).....	29.00	Oct. 1, 1989
1-199.....	12.00	July 1, 1989	1 (Parts 52-99).....	18.00	Oct. 1, 1989
200-End.....	21.00	July 1, 1989	2 (Parts 201-251).....	19.00	Oct. 1, 1989
37.....	14.00	July 1, 1989	2 (Parts 252-299).....	17.00	Oct. 1, 1989
38 Parts:			3-6.....	19.00	Oct. 1, 1989
0-17.....	24.00	Sept. 1, 1989	7-14.....	25.00	Oct. 1, 1989
18-End.....	21.00	Sept. 1, 1989	15-End.....	27.00	Oct. 1, 1989
39.....	14.00	July 1, 1989	49 Parts:		
40 Parts:			1-99.....	14.00	Oct. 1, 1989
1-51.....	25.00	July 1, 1989	100-177.....	28.00	Oct. 1, 1989
52.....	25.00	July 1, 1989	178-199.....	22.00	Oct. 1, 1989
53-60.....	29.00	July 1, 1989	200-399.....	20.00	Oct. 1, 1989
61-80.....	11.00	July 1, 1989	400-999.....	25.00	Oct. 1, 1989
81-85.....	11.00	July 1, 1989	1000-1199.....	18.00	Oct. 1, 1989
86-99.....	25.00	July 1, 1989	1200-End.....	19.00	Oct. 1, 1989
100-149.....	27.00	July 1, 1989	50 Parts:		
150-189.....	21.00	July 1, 1989	1-199.....	18.00	Oct. 1, 1989
190-299.....	29.00	July 1, 1989	200-599.....	15.00	Oct. 1, 1989
300-399.....	10.00	July 1, 1989	600-End.....	14.00	Oct. 1, 1989
400-424.....	23.00	July 1, 1989	CFR Index and Findings Aids.....	29.00	Jan. 1, 1989
425-699.....	23.00	July 1, 1989	Complete 1990 CFR set.....	620.00	1990
700-789.....	15.00	July 1, 1989	Microfiche CFR Edition:		
790-End.....	21.00	July 1, 1989	Complete set (one-time mailing).....	115.00	1985
41 Chapters:			Complete set (one-time mailing).....	185.00	1986
1, 1-1 to 1-10.....	13.00	⁵ July 1, 1984	Complete set (one-time mailing).....	185.00	1987
1, 1-11 to Appendix, 2 (2 Reserved).....	13.00	⁵ July 1, 1984	Subscription (mailed as issued).....	185.00	1988
3-6.....	14.00	⁵ July 1, 1984	Subscription (mailed as issued).....	188.00	1989
7.....	6.00	⁵ July 1, 1984			
8.....	4.50	⁵ July 1, 1984			
9.....	13.00	⁵ July 1, 1984			
10-17.....	9.50	⁵ July 1, 1984			
18, Vol. I, Parts 1-5.....	13.00	⁵ July 1, 1984			
18, Vol. II, Parts 6-19.....	13.00	⁵ July 1, 1984			
18, Vol. III, Parts 20-52.....	13.00	⁵ July 1, 1984			
19-100.....	13.00	⁵ July 1, 1984			
1-100.....	8.00	July 1, 1989			

Title	Price	Revision Date
Individual copies	2.00	1990

* Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

* No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1989. The CFR volume issued January 1, 1987, should be retained.

* No amendments to this volume were promulgated during the period Apr. 1, 1989 to Mar. 30, 1990. The CFR volume issued April 1, 1989, should be retained.

* The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

* The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

CFR ISSUANCES 1990**January–April 1990 Editions and Projected July, 1990 Editions**

This list sets out the CFR issuances for the January–April 1990 editions and projects the publication plans for the July, 1990 quarter. A projected schedule that will include the October, 1990 quarter will appear in the first Federal Register issue of October.

For pricing information on available 1989–1990 volumes consult the CFR checklist which appears every Monday in the Federal Register.

Pricing information is not available on projected issuances. The weekly CFR checklist and the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR titles and parts, revision date and price of each volume.

Normally, CFR volumes are revised according to the following schedule:

- Titles 1–16—January 1
- Titles 17–27—April 1
- Titles 28–41—July 1
- Titles 42–50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

*Indicates volume is still in production.

Titles revised as of January 1, 1990 editions:**Title**

CFR Index* 1–199
200–End

1–2

3 (Compilation)

10 Parts:
0–50
51–199
200–399 (Cover only)
400–499
500–End

4

5 Parts:

1–699
700–1199
1200–End

11

6 [Reserved]

12 Parts:
1–199
200–219
220–299
300–499
500–599
600–End

7 Parts:

0–26
27–45
46–51
52
53–209
210–299
300–399
400–699
700–899
900–999
1000–1059
1060–1119
1120–1199
1200–1499
1500–1899
1900–1939
1940–1949
1950–1999
2000–End

13

14 Parts:
1–59
60–139
140–199
200–1199
1200–End

15 Parts:
0–299
300–799
800–End

16 Parts:
0–149
150–999
1000–End

8

9 Parts:

Titles revised as of April 1, 1990:**Title**

17 Parts:

1–199*
200–239
240–End

18 Parts:

1–149
150–279*
280–399
400–End

19 Parts:

1–199*
200–End

20 Parts:

1–399
400–499
500–End*

21 Parts:

1–99*
100–169
170–199
200–299
300–499
500–599
600–799
800–1299*
1300–End

22 Parts:

1–299
300–End

23

24 Parts:

0–199
200–499
500–699
700–1699
1700–End

25*

26 Parts:

1 (§§ 1.0–1.160)
1 (§§ 1.61–1.169)
1 (§§ 1.170–1.300)
1 (§§ 1.301–1.400)
1 (§§ 1.401–1.500)
1 (§§ 1.501–1.640)
1 (§§ 1.641–1.850)
1 (§§ 1.851–1.907)
1 (§§ 1.908–1.1000)
1 (§§ 1.1001–1.1400)
1 (§§ 1.1401–End)
2–29
30–39
40–49
50–299
300–499
500–599
600–End

27 Parts:

1–199*
200–End

Projected July 1, 1990 editions:**Title**

28

400–End

29 Parts:

0–99
100–499
500–899
900–1899
1900–1910 (§§ 1901.1000–1910.441)
1910 (§§ 1910.1000–End)
1911–1925 (Cover only)
1926
1927–End

35

30 Parts:

0–199
200–699
700–End

39

31 Parts:

0–199
200–End
32 Parts:
1–189
190–399
400–629
630–699 (Cover only)
700–799
800–End

36 Parts:

1–199
200–End
37
38 Parts:
0–17
18–End
39
40 Parts:
1–51
52
53–60
61–80
81–85
86–99
100–149
150–189
190–259
260–299
300–399
400–424
425–699 (Cover only)
700–789
790–End

33 Parts:

1–124
125–199
200–End

34 Parts:

1–299
300–399

41 Parts:

Chs. 1–100
Ch. 101
Chs. 102–200
Ch. 201–End

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 1990

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

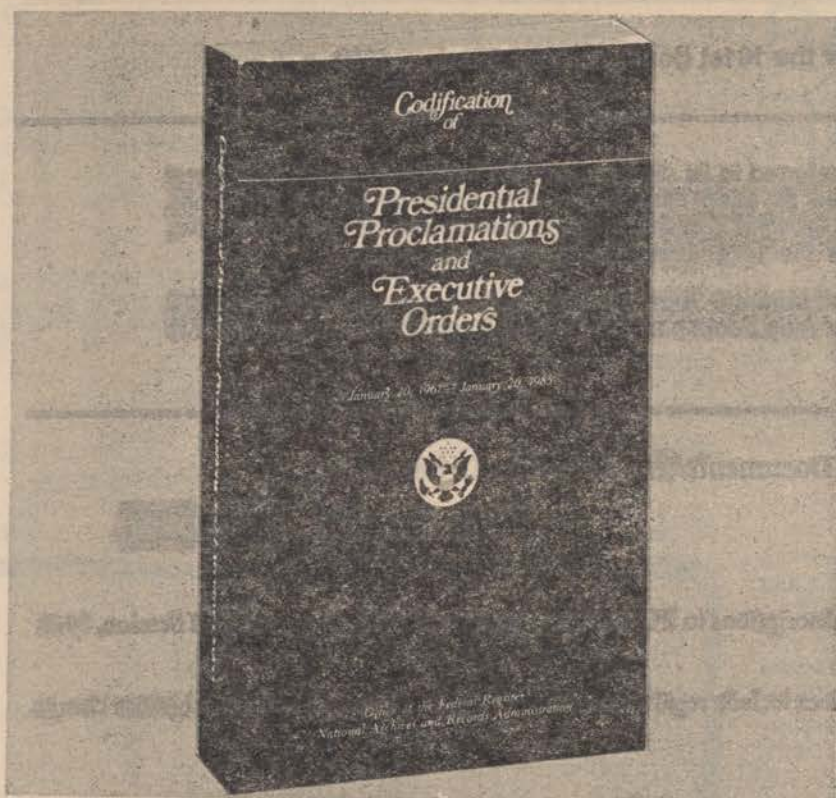
dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
July 2	July 17	August 1	August 16	August 31	October 1
July 3	July 18	August 2	August 17	September 4	October 1
July 5	July 20	August 6	August 20	September 4	October 3
July 6	July 23	August 6	August 20	September 4	October 4
July 9	July 24	August 8	August 23	September 7	October 9
July 10	July 25	August 9	August 24	September 10	October 9
July 11	July 26	August 10	August 27	September 10	October 9
July 12	July 27	August 13	August 27	September 10	October 10
July 13	July 30	August 13	August 27	September 11	October 11
July 16	July 31	August 15	August 30	September 14	October 15
July 17	August 1	August 16	August 31	September 17	October 15
July 18	August 2	August 17	September 4	September 17	October 16
July 19	August 3	August 20	September 4	September 17	October 17
July 20	August 6	August 20	September 4	September 18	October 18
July 23	August 7	August 22	September 6	September 21	October 22
July 24	August 8	August 23	September 7	September 24	October 22
July 25	August 9	August 24	September 10	September 24	October 23
July 26	August 10	August 27	September 10	September 24	October 24
July 27	August 13	August 27	September 10	September 25	October 25
July 30	August 14	August 29	September 13	September 28	October 29
July 31	August 15	August 30	September 14	October 1	October 29

New edition Order now !



For those of you who must keep informed about **Presidential Proclamations and Executive Orders**, there is a convenient reference source that will make researching these documents much easier.

Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period April 13, 1945, through January 20, 1989, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1945-1989 period—along with any amendments—an indication of its current status, and, where applicable, its location in this volume.

Published by the Office of the Federal Register,
National Archives and Records Administration

Order from Superintendent of Documents,
U.S. Government Printing Office,
Washington, DC 20402-9325

Superintendent of Documents Publications Order Form

Order Processing Code:

***6661**

☐ **YES**, please send me the following indicated publication:

**Charge your order.
It's easy!**



To fax your orders and inquiries—(202) 275-0019

_____ copies of the **CODIFICATION OF PRESIDENTIAL PROCLAMATIONS AND EXECUTIVE ORDERS**,
S/N 069-000-00018-5 at \$32.00 each.

The total cost of my order is \$_____. (International customers please add 25%.) Prices include regular domestic postage and handling and are good through 1/90. After this date, please call Order and Information Desk at 202-783-3238 to verify prices.

Please Choose Method of Payment:☐ Check payable to the Superintendent of Documents☐ GPO Deposit Account

							-	
--	--	--	--	--	--	--	---	--

☐ VISA or MasterCard Account[illegible]

(Credit card expiration date) *Thank you for your order!*

(Signature)

7.89

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

()

(Daytime phone including area code)

Mail To: Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325

Public Laws

are now available for the 101st Congress, 2nd Session, 1990

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 101st Congress, 2nd Session, 1990.

(Individual laws also may be purchased from the Superintendent of Documents, Washington, DC 20402-9328. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws and prices).

Superintendent of Documents Subscriptions Order Form

Order Processing Code:

*6216

Charge your order.
It's easy!



☐ **YES**, please send me _____ subscriptions to **PUBLIC LAWS** for the 101st Congress, 2nd Session, 1990 for \$107 per subscription.

1. The total cost of my order is \$_____. All prices include regular domestic postage and handling and are subject to change. International customers please add 25%.

Please Type or Print

2. _____
(Company or personal name)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)
()
(Daytime phone including area code)

3. Please choose method of payment:

☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account -
☐ VISA or MasterCard Account

(Credit card expiration date)

Thank you for your order!

(Signature)

1/90

4. Mail To: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9371

Guide to Record Retention Requirements in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1989

SUPPLEMENT: Revised January 1, 1990

The GUIDE and the SUPPLEMENT should be used together. This useful reference tool, compiled from agency regulations, is designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The GUIDE is formatted and numbered to parallel the CODE OF FEDERAL REGULATIONS (CFR) for uniformity of citation and easy reference to the source document.

Compiled by the Office of the Federal Register, National Archives and Records Administration.

Order from Superintendent of Documents,
U.S. Government Printing Office,
Washington, DC 20402-9325.

Superintendent of Documents Publication Order Form

Order Processing Code: *6788

Charge your order.
It's easy!



To fax your orders and inquiries. 202-275-0019

☐ **YES,** please send me the following indicated publication:

_____ copies of the 1989 GUIDE TO RECORD RETENTION REQUIREMENTS IN THE CFR
S/N 069-000-00020-7 at \$12.00 each.

_____ copies of the 1990 SUPPLEMENT TO THE GUIDE, S/N 069-000-00025-8 at \$1.50 each.

1. The total cost of my order is \$_____ (International customers please add 25%). All prices include regular domestic postage and handling and are good through 8/90. After this date, please call Order and Information Desk at 202-783-3238 to verify prices.

Please Type or Print

2. _____
(Company or personal name)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)
()
(Daytime phone including area code)

3. Please choose method of payment:

- ☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account [] [] [] [] [] [] [] [] [] []
☐ VISA or MasterCard Account
[] [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] []

(Credit card expiration date) *Thank you for your order!*

(Signature)

2/86

4. Mail To: Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325

The authentic text behind the news . . .

The Weekly Compilation of Presidential Documents

Administration of George Bush

This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, personnel appointments and nominations, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue contains an Index of Contents and a Cumulative Index to Prior Issues.

Separate indexes are published periodically. Other features include

lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements.

Published by the Office of the Federal Register, National Archives and Records Administration.

Weekly Compilation of Presidential Documents



Monday, January 23, 1989
Volume 25—Number 4

Superintendent of Documents Subscriptions Order Form

Order Processing Code:

*6466

Charge your order.
It's easy!



Charge orders may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

☐ **YES,**

please enter my subscription for one year to the **WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS (PD)** so I can keep up to date on Presidential activities.

☐ \$96.00 First Class

☐ \$55.00 Regular Mail

1. The total cost of my order is \$ _____. All prices include regular domestic postage and handling and are subject to change. International customers please add 25%.

Please Type or Print

2. _____
(Company or personal name)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)
()
(Daytime phone including area code)

3. Please choose method of payment:

- ☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account ☐
☐ VISA or MasterCard Account
☐

(Credit card expiration date)

Thank you for your order!

(Signature)

(Rev. 1-20-88)

4. Mail To: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9371



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are available; other volumes not listed are out of print.

Gerald R. Ford

1975
(Book I)\$22.00

Jimmy Carter

1978
(Book I)\$24.00

1979
(Book I)\$24.00

1979
(Book II)\$24.00

1980-81
(Book I)\$21.00

1980-81
(Book II)\$22.00

1980-81
(Book III)\$24.00

Ronald Reagan

1981.....\$25.00

1982
(Book II)\$25.00

1983
(Book I)\$31.00

1983
(Book II)\$32.00

1984
(Book I)\$36.00

1984
(Book II)\$36.00

1985
(Book I)\$34.00

1985
(Book II)\$30.00

1986
(Book I)\$37.00

1986
(Book II)\$35.00

1987
(Book I)\$33.00

1987
(Book II)\$35.00

1988
(Book I)\$39.00

Published by the Office of the Federal Register, National Archives and Records Administration

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-9325.

(Rev. 2/90)

